

## **Justification for Other than Full and Open Competition (JOFOC)**

Authority: 41 U.S.C. 253(c), FAR PART 6.3

1. **Agency:** U.S. Environmental Protection Agency  
**Contracting Activity:** Office of Acquisition Management - Headquarters  
Procurement Operations Division  
**Contractor:** Definers Corp
2. **Nature and/or description of the action:**

**Deliberative Process / Ex. 5**

3. **Description of the Supplies or Services:**

**Deliberative Process / Ex. 5**

Period of performance:

**Deliberative Process / Ex. 5**

4. **Authority:** [Check appropriate exception.]

[ X ] Only One Responsible Source

**Authority:** 41 U.S.C. 253 (c) (1)

**FAR Cite:** FAR 6.302-1

5. **Describe how the contractor's unique qualifications or the nature of the acquisition requires use of the authority cited:**

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

6. **Describe the efforts made to ensure that offers are solicited from as many potential sources as practicable:**

A JOFOC and RFI notice will be posted on FedBizOpps (synopsized) and FedConnect for five calendar days.

7. **The contracting officer determines that the anticipated cost to the Government will be fair and reasonable due to the vendor's published rates, or other available price information.**

## **Deliberative Process / Ex. 5**

8. **Description of the market research conducted (see FAR Part 10). If no market research was conducted, state the reasons:**

Leading providers Cision ([www.cision.com](http://www.cision.com)), Bulletin Intelligence ([www.bulletinintelligence.com](http://www.bulletinintelligence.com)), and Critical Mention ([www.criticalmention.com](http://www.criticalmention.com)) do not provide the combined services sought by EPA's Office of Public Affairs.

9. **Other facts supporting the use of other than full and open competition.**

Definers Corp. states that no other service gives their clients the high level and comprehensive search functions that it offers through its customized Console. Clients have the ability to tailor their tags and tailor who from their teams sees those tags. The storage and search functions of the Console are something no other clip service provides because they do not have the Definers proprietary Console.

**From:** Aarons, Kyle  
**Location:** DCRoomARN3428/OCIR or call-in  
**Importance:** Normal  
**Subject:** Pre-call for discussion with Senate staff on Definers Public Affairs  
**Start Time:** Fri 5/11/2018 3:30:00 PM  
**End Time:** Fri 5/11/2018 4:00:00 PM  
**Required Attendees:** Palich, Christian; Frye, Tony (Robert); Burke, Marcella; Knapp, Kristien; Grantham, Nancy; Patrick, Kimberly; Stewart, Keith; Legare, Pamela  
**Optional Attendees:** Shaffer, Patricia

- [Whitehouse 4-27-18 \(Definers\).pdf](#)
- [Definers contract documents 4-27-18.pdf](#)
- [Whitehouse News Analysis 12-19-17.pdf](#)
- [Final Statement of Work - Media Support Contract \(Releasable\).pdf](#)
- [Purchase Order EP-18-H-000025 - JOFOC \(Redacted\).pdf](#)
- [Purchase Order EP-18-H-000025 MOD 1 \(Redacted\).pdf](#)
- [Determination and Findings - 12-7-17 \(Releasable\).pdf](#)

UPDATE 2: Hi all – We’ve recently released additional docs on this subject through FOIA. I’ll be sending them directly to these staffers shortly. There are attached.

UPDATE: Adding call-in info

Call:	
External Code	Nonresponsive Conference Codes / Ex. 6

Hi all – Staff for Senators Harris and Whitehouse would like to talk to us at 2PM Friday about Definers Public Affairs. This 11:30 meeting is to go over everything internally before we get on the phone. Please let me know if you are available.

Thanks,  
Kyle



## Justification for Other than Full and Open Competition (JOFOC)

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2. Nature and/or description of the action:

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3. Description of the Supplies or Services:

**Deliberative Process / Ex. 5**

✓ Period of performance: **Deliberative Process / Ex. 5**

✓ DUNS: **Deliberative Process / Ex. 5**

✓ Proposed Source: Definers Corp.

**Contacts:**

**Joe Pounder, President**

**Tel.** (b)(4)

(b)(4)

(b)(4)

(b)(4)

(b)(4)

**4. Authority: [Check appropriate exception.]**

☒ Only One Responsible Source

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**FAR Cite:** FAR 6.302-1

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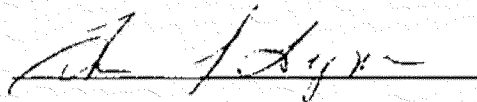
9. **Other facts supporting the use of other than full and open competition.**

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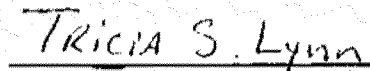
### **Approvals –**

**1) Project Officer's Certification**

I certify that the facts and representations stated in this justification are complete and accurate which form the basis to award this requirement.



**Signature of Technical Officer**



**Printed name of Technical Officer**

**Technical Officer's phone number & E-mail address:**

202.564.2615 / [lynn.tricia@epa.gov](mailto:lynn.tricia@epa.gov)

Date: 11/29/2017

**2) Contracting Officer's Certification**

I certify that this justification is accurate and complete to the best of my knowledge and belief.

Jody Gosnell

Signature of Contracting Officer

Jody Gosnell

Printed name of  
Contracting Officer

Contracting Officer's phone number and E-mail address: gosnell.jody@epa.gov  
202-564-4353

Date: 11/29/17

## **Justification for Other than Full and Open Competition (JOFOC)**

Authority: 41 U.S.C. 253(c), FAR PART 6.3

1. **Agency:** U.S. Environmental Protection Agency  
**Contracting Activity:** Office of Acquisition Management - Headquarters  
Procurement Operations Division  
**Contractor:** Definers Corp
2. **Nature and/or description of the action:**

**Deliberative Process / Ex. 5**

3. **Description of the Supplies or Services:**

**Deliberative Process / Ex. 5**

Period of performance: **Deliberative Process / Ex. 5**

4. **Authority:** [Check appropriate exception.]

[ X ] Only One Responsible Source

**Authority:** 41 U.S.C. 253 (c) (1)

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**To:** Rementer, Nicole[rementer.nicole@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Creech, Christopher[Creech.Christopher@epa.gov]  
**Cc:** Aarons, Kyle[Aarons.Kyle@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]  
**From:** Yaeger, Ryan  
**Sent:** Wed 2/7/2018 4:29:17 PM  
**Subject:** RE: E&C Pallone QFR on Definers Contract  
Definers contract documents with proposed redactions 2-6-18.pdf

As the story only broke in December, and my recollection is [Attorney Client /DPP/ Ex. 5]  
**Attorney Client / DPP/ Ex. 5**

Looping in Kyle who, as far as I can tell, knows everything. He tells me [Attorney Client/ DPP / Ex. 5]  
**Attorney Client / DPP/ Ex. 5**

**From:** Rementer, Nicole  
**Sent:** Wednesday, February 07, 2018 11:18 AM  
**To:** Grantham, Nancy <Grantham.Nancy@epa.gov>; Yaeger, Ryan <Yaeger.Ryan@epa.gov>; Creech, Christopher <Creech.Christopher@epa.gov>  
**Subject:** RE: E&C Pallone QFR on Definers Contract

Typical lawyer’s response— [Attorney Client / Ex. 5]  
**Attorney Client / Ex. 5**

**Nicole M. Rementer**  
Attorney-Adviser | FOIA Expert Assistance Team (FEAT)  
U.S. Environmental Protection Agency | Office of General Counsel  
7426NN WJCN | 202.564.3692

**From:** Grantham, Nancy  
**Sent:** Wednesday, February 07, 2018 11:04 AM  
**To:** Yaeger, Ryan <Yaeger.Ryan@epa.gov>; Rementer, Nicole <rementer.nicole@epa.gov>; Creech, Christopher <Creech.Christopher@epa.gov>  
**Subject:** FW: E&C Pallone QFR on Definers Contract

See below – Ryan is dealing with this through ocir oversight – so good connection with foia – as we expected.  
To my knowledge, [Attorney Client / Ex. 5] can we confirm that ?  
Thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**  
[Personal Phone / Ex. 6] **(mobile)**

**From:** Bowman, Liz  
**Sent:** Wednesday, February 07, 2018 10:44 AM  
**To:** Ringel, Aaron <ringel.aaron@epa.gov>  
**Cc:** Lyons, Troy <lyons.troy@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>  
**Subject:** RE: E&C Pallone QFR on Definers Contract

Fine with me, but looping in Nancy and Jahan to confirm.



**From:** Ringel, Aaron  
**Sent:** Wednesday, February 7, 2018 10:39 AM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Lyons, Troy <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)>  
**Subject:** E&C Pallone QFR on Definers Contract

Liz/Troy,

Ranking Member Pallone asked for a copy of the contract with Definers along with the scope of work in his questions for the record after the Administrators 12/7 hearing (question/response below). Have we provided this elsewhere or has it been released as part of a FOIA possibly?

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

Thoughts?

33. PALLONE: Please provide a copy of the contract between EPA and Definers Corp. including any statement of work.

**Response:**

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

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**Aaron E. Ringel**

*Deputy Associate Administrator*

*Office of Congressional & Intergovernmental Relations*

*U.S. Environmental Protection Agency*

W: 202.564.4373

[Ringel.Aaron@epa.gov](mailto:Ringel.Aaron@epa.gov)

**To:** Grantham, Nancy[Grantham.Nancy@epa.gov]  
**From:** Sauerhage, Maggie  
**Sent:** Fri 3/23/2018 3:09:45 PM  
**Subject:** CMS Responses

Hi Nancy,

Here are the subjects and some proposed responses of the outstanding CMS messages. The majority are related to the SAB changes announced in October. I believe you said that we have messaging on that, is there someone in particular I should ask for it? Let me know **Deliberative Process / Ex. 5**

Thanks,  
Maggie

**CMS Response Subjects (Number of messages):**

- SAB (49)
- General comments for Administrator (8)
  - **Draft response:**

**Deliberative Process / Ex. 5**

- Climate pages on web (4)
  - **Draft response:**

**Deliberative Process / Ex. 5**

- Red team/Blue team (3)
  - **Deliberative Process / Ex. 5**
- Photo rights (3)
- ORD scientists not allowed to present in Rhode Island (2)
  - **Draft response:**

**Deliberative Process / Ex. 5**

- Wants to add links to EPA webpages (2)
- Student Q's for Gina McCarthy (2)
- Other:
  - Concerned about hiring of Definers Corp without bid process
  - Wants Administrator to visit Tesla
  - Wants to interview Administrator for documentary
  - Has questions related to history of EPA for school report
    - <https://www.epa.gov/history#timeline>
  - Doesn't want climate removed from EPA museum
  - Wants photo & bio of Administrator
    - <https://www.epa.gov/aboutepa/epas-administrator>
  - Wants to find Green Power Locator online
    - <https://www.epa.gov/greenpower/locate-green-power-suppliers>
  - Looking for info on James Harry McDermott for mother's obituary
  - Concerned about safety of Superfund sites in Houston related to Hurricane Harvey
  - Requesting EPA sponsorship of "Women in Skilled Trades" campaign

Maggie Sauerhage  
Science Communications  
U.S. Environmental Protection Agency  
Office: (202) 564-0443  
Cell: **Personal Phone / Ex. 6**

**To:** Bigioni, Neil[bigioni.neil@epa.gov]  
**Cc:** Grantham, Nancy[Grantham.Nancy@epa.gov]; Kelly, Lynn[Kelly.Lynn@epa.gov]  
**From:** Walker, Denise  
**Sent:** Tue 4/17/2018 10:05:52 PM  
**Subject:** Upcoming FOIA document release related to Definer's contract appeal FOIA-HQ-2018-003680  
[Purchase Order EP-18-H-000025 \(Redacted\).pdf](#)  
[Purchase Order EP-18-H-000025 MOD 1 \(Redacted\).pdf](#)  
[Purchase Order EP-18-H-000025 - JOFOC \(Redacted\).pdf](#)  
[Initial Statement of Work - Media Support Services \(Releasable\).pdf](#)  
[Final Statement of Work - Media Support Contract \(Releasable\).pdf](#)  
[Determination and Findings - 12-7-17 \(Releasable\).pdf](#)  
[SUPPORTINGMEMO for Sole Source Purchase Award Memorandum - 12-07-17 \(Releasable\).pdf](#)

Neil:

**Attorney Client / Ex. 5**

**Attorney Client / Ex. 5**

**Attorney Client / Ex. 5**

Best,  
Denise

Denise A. Walker  
U.S. Environmental Protection Agency  
Office of General Counsel  
Washington, D.C. | 7308A WJCN  
Office: 202-564-6520  
EPA Cell: [Personal Phone / Ex. 6](#)

Have a FOIA question? Try [here](#) first!

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**From:** Grantham, Nancy  
**Sent:** Tuesday, April 17, 2018 5:10 PM  
**To:** Hitchens, Lynnnann <hitchens.lynnann@epa.gov>; Vizian, Donna <Vizian.Donna@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Bigioni, Neil <bigioni.neil@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>  
**Subject:** FW: FOIA Appeal to FOIA-HQ-2018-003680

All –

This is about the Definers media contract – want to make sure that everyone is aware of this. Per OARM, there are 13 other foias on this same topic/issue – so we need to decide how we are going to proceed.

Thanks ng

**Nancy Grantham**  
**Office of Public Affairs**

**US Environmental Protection Agency**

**202-564-6879 (desk)**

**Personal Phone / Ex. 6 (mobile)**

---

**From:** Hitchens, Lynnann

**Sent:** Tuesday, April 17, 2018 4:50 PM

**To:** Vizian, Donna <[Vizian.Donna@epa.gov](mailto:Vizian.Donna@epa.gov)>; Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>

**Subject:** FOIA Appeal to FOIA-HQ-2018-003680

Donna and Nancy –

The OGC attorney handling the subject appeal needs to provide a timeline (by tomorrow) for when we will be able to release the responsive documents to FOIA -HQ-2018-003680. Specific information about the FOIA is below.

I believe that this request will be completed and ready for production and release by COB April 23<sup>rd</sup>. We could possibly meet an earlier date, if needed. Please advise.

The responsive documents would also fulfill (partial or in full) other similar FOIAs.

Lynnann Hitchens

Director, Office of Resources, Operations, and Management

Office of Administration and Resources Management

P: 202-564-3184

M: 202-617-0738

---

**From:** Sandfoss, Kristina

**Sent:** Tuesday, April 03, 2018 5:38 PM

**To:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>

**Cc:** Hitchens, Lynnann <[hitchens.lynnann@epa.gov](mailto:hitchens.lynnann@epa.gov)>

**Subject:** RE: responsive documents

Good afternoon Nancy,

The request is EPA-HQ-2018-003680, appeal filed by H Kryczka/Environmental Advocates.

Documents redacted and uploaded to FOIAonline:

- Purchase Order EP-18-H-000025

- Purchase Order EP-18-H-000025 MOD 1

- Purchase Order EP-18-H-000025 JOFOC

- Initial Statement of Work – Media Support Services

- Final Statement of Work – Media Support Contract

- Determinations and Findings 12-7-17

- Supporting Memo 12-7-17

Please let me know if you have any questions. Thank you for your time and help with this.

Have a good evening,

Kristina

---

**From:** Grantham, Nancy

**Sent:** Tuesday, April 3, 2018 5:21 PM

**To:** Hitchens, Lynnann <[hitchens.lynnann@epa.gov](mailto:hitchens.lynnann@epa.gov)>

**Cc:** Sandfoss, Kristina <[Sandfoss.Kristina@epa.gov](mailto:Sandfoss.Kristina@epa.gov)>

**Subject:** RE: responsive documents

Thanks

**Nancy Grantham**

**Office of Public Affairs**

**US Environmental Protection Agency**

**202-564-6879 (desk)**

---

**From:** Hitchens, Lynnann  
**Sent:** Tuesday, April 03, 2018 5:10 PM  
**To:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>  
**Cc:** Sandfoss, Kristina <[Sandfoss.Kristina@epa.gov](mailto:Sandfoss.Kristina@epa.gov)>  
**Subject:** responsive documents

Nancy – Kristina will be sending you the responsive documents directly, per our discussion. There are 14 requests similar to the one under appeal. Thanks for taking a look. Kristina will need to get back to the OGC attorney within a day or two.

Thanks --

Lynnann Hitchens  
Director, Office of Resources, Operations, and Management  
Office of Administration and Resources Management

P: 202-564-3184

M: Personal Phone / Ex. 6

**To:** Aarons, Kyle[Aarons.Kyle@epa.gov]  
**Cc:** Burke, Marcella[burke.marcella@epa.gov]; Frye, Tony (Robert)[frye.robert@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]  
**From:** Palich, Christian  
**Sent:** Tue 5/15/2018 8:57:14 PM  
**Subject:** Re: Update on Definers FOIAs

Sounds great. Thanks Kyle!

Christian R. Palich  
Deputy Associate Administrator  
Office of Congressional Affairs  
C: Personal Phone / Ex. 6

Sent from my iPhone

On May 15, 2018, at 4:43 PM, Aarons, Kyle <Aarons.Kyle@epa.gov> wrote:

Hi Christian and Marcella –

# Deliberative Process / Ex. 5

**Deliberative Process / Ex. 5**

I plan to relay this information to Dan and Monica tomorrow.

Thanks,  
Kyle

Kyle Aarons  
Congressional Affairs  
U.S. Environmental Protection Agency  
202-564-7351

**To:** Walker, Denise[Walker.Denise@epa.gov]; Aarons, Kyle[Aarons.Kyle@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Bigioni, Neil[bigioni.neil@epa.gov]; White, Elizabeth[white.elizabeth@epa.gov]; Kelly, Lynn[Kelly.Lynn@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]  
**Cc:** White, Elizabeth[white.elizabeth@epa.gov]; Sandfoss, Kristina[Sandfoss.Kristina@epa.gov]; Jablonski, Janice[jablonski.janice@epa.gov]  
**From:** Hitchens, Lynnann  
**Sent:** Wed 4/25/2018 9:45:32 PM  
**Subject:** RE: Definers Oversight response

Kyle – Thanks for the update. There won’t be any changes in OARM’s FOIA status before Friday.

Lynnann Hitchens  
Director, Office of Resources, Operations, and Management  
Office of Administration and Resources Management  
P: 202-564-3184  
M: Personal Phone / Ex. 6

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**From:** Walker, Denise  
**Sent:** Wednesday, April 25, 2018 5:40 PM  
**To:** Aarons, Kyle <Aarons.Kyle@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bigioni, Neil <bigioni.neil@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Kelly, Lynn <Kelly.Lynn@epa.gov>; Hitchens, Lynnann <hitchens.lynnann@epa.gov>; Knapp, Kristien <Knapp.Kristien@epa.gov>  
**Cc:** White, Elizabeth <white.elizabeth@epa.gov>  
**Subject:** RE: Definers Oversight response

FEAT is not aware of any releases related to this topic.

Denise A. Walker  
U.S. Environmental Protection Agency  
Office of General Counsel  
Washington, D.C. | 7308A WJCN  
Office: 202-564-6520  
EPA Cell: Personal Phone / Ex. 6

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**Sent:** Wednesday, April 25, 2018 5:40 PM  
**To:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>; Bigioni, Neil <[bigioni.neil@epa.gov](mailto:bigioni.neil@epa.gov)>; White, Elizabeth <[white.elizabeth@epa.gov](mailto:white.elizabeth@epa.gov)>; Walker, Denise <[Walker.Denise@epa.gov](mailto:Walker.Denise@epa.gov)>; Kelly, Lynn <[Kelly.Lynn@epa.gov](mailto:Kelly.Lynn@epa.gov)>; Hitchens, Lynnann <[hitchens.lynnann@epa.gov](mailto:hitchens.lynnann@epa.gov)>; Knapp, Kristien <[Knapp.Kristien@epa.gov](mailto:Knapp.Kristien@epa.gov)>  
**Cc:** White, Elizabeth <[white.elizabeth@epa.gov](mailto:white.elizabeth@epa.gov)>  
**Subject:** RE: Definers Oversight response

Hi all – We are now planning to send our Definers docs to the hill on Friday. Please let me know if there are any changes in the FOIA status before then. Thank you

-Kyle

Kyle Aarons  
Congressional Affairs  
U.S. Environmental Protection Agency  
202-564-7351

---

**From:** Aarons, Kyle  
**Sent:** Wednesday, April 25, 2018 4:00 PM  
**To:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>; Bigioni, Neil <[bigioni.neil@epa.gov](mailto:bigioni.neil@epa.gov)>; White, Elizabeth



<[white.elizabeth@epa.gov](mailto:white.elizabeth@epa.gov)>; Walker, Denise <[Walker.Denise@epa.gov](mailto:Walker.Denise@epa.gov)>; Kelly, Lynn <[Kelly.Lynn@epa.gov](mailto:Kelly.Lynn@epa.gov)>; Hitchens, Lynnann <[hitchens.lynnann@epa.gov](mailto:hitchens.lynnann@epa.gov)>; Knapp, Kristien <[Knapp.Kristien@epa.gov](mailto:Knapp.Kristien@epa.gov)>  
**Cc:** White, Elizabeth <[white.elizabeth@epa.gov](mailto:white.elizabeth@epa.gov)>  
**Subject:** RE: Definers Oversight response

Hi all – I’ve finally had a chance to review the Definers documents set for FOIA release. It appears we have

Deliberative Process / Ex. 5

## Deliberative Process / Ex. 5

## Deliberative Process / Ex. 5

## Deliberative Process / Ex. 5

Thank you,  
Kyle

Kyle Aarons  
Congressional Affairs  
U.S. Environmental Protection Agency  
202-564-7351

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**From:** Grantham, Nancy  
**Sent:** Tuesday, April 17, 2018 7:02 PM  
**To:** Bigioni, Neil <[bigioni.neil@epa.gov](mailto:bigioni.neil@epa.gov)>; White, Elizabeth <[white.elizabeth@epa.gov](mailto:white.elizabeth@epa.gov)>; Walker, Denise <[Walker.Denise@epa.gov](mailto:Walker.Denise@epa.gov)>; Kelly, Lynn <[Kelly.Lynn@epa.gov](mailto:Kelly.Lynn@epa.gov)>; Hitchens, Lynnann <[hitchens.lynnann@epa.gov](mailto:hitchens.lynnann@epa.gov)>; Vizian, Donna <[Vizian.Donna@epa.gov](mailto:Vizian.Donna@epa.gov)>; Aarons, Kyle <[Aarons.Kyle@epa.gov](mailto:Aarons.Kyle@epa.gov)>; Knapp, Kristien <[Knapp.Kristien@epa.gov](mailto:Knapp.Kristien@epa.gov)>  
**Cc:** White, Elizabeth <[white.elizabeth@epa.gov](mailto:white.elizabeth@epa.gov)>  
**Subject:** FW: Definers Oversight response

This is related to the OARM foia release I flagged for OGC/OEX earlier today – seems we need to coordinate? Thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**  
Personal Phone / Ex. 6 (mobile)

---

**From:** Knapp, Kristien  
**Sent:** Monday, April 16, 2018 3:22 PM  
**To:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>  
**Cc:** Aarons, Kyle <[Aarons.Kyle@epa.gov](mailto:Aarons.Kyle@epa.gov)>  
**Subject:** Definers Oversight response

Hi Nancy,

Our response to congressional oversight requests about the Definers contract is now ready for signature. I’m attaching the 3 incoming letters, our responses and the redacted documents that we’ll send as enclosures. This response has been reviewed and approved by OARM, OGC, and OCIR. Please let us know if you or Liz have any feedback or questions. I’d be happy to print it out for Liz to sign if you can point me towards OPA letterhead. My understanding is **Deliberative Process / Ex. 5** hearing next week.

Thanks,  
Kristien

Kristien Knapp  
Legislative and Oversight Counsel

Office of Congressional Affairs  
U.S. Environmental Protection Agency  
(202) 564-3277

## Attachment—Additional Questions for the Record

### The Honorable John Shimkus

1. **OECA** This committee was instrumental in developing the Electronic Hazardous Waste Manifest Act of 2012, which requires EPA to replace the outdated paper documents with a new electronic system for tracking all hazardous waste shipments.
  - a. What are some of the other ways the hazardous waste program could be improved, particularly in terms of the elimination of duplicative and unnecessary regulations?
  - b. Is EPA pursuing any of these efforts?
2. **OAR** The previous Administration attempted to regulate farms and agricultural processors by saying that its 2009 Endangerment Finding regulated “biogenic” CO2 from agricultural crops. I understand The Endangerment Finding, however, never mentions the word “biogenic.”
  - a. Do you intend to look at this interpretation of the Endangerment Finding?
  - b. If so, would you view it in terms of whether EPA overreached to regulate natural CO2 from U.S. farms?
3. **OAR** On October 17, 2017, EPA's Air Enforcement Division sent a letter to the Ozone Transport Commission stating that the agency "agrees that the 1986 policy on aftermarket catalytic converter emissions is outdated."
  - a. What steps are being taken to update this policy?
  - b. Does the Agency have a timeline for this process?
4. There has been concern that EPA’s regional offices enforce their authority differently from each other and Headquarters guidance. Do you intend to bring alignment among EPA Headquarters and the Regions?

**DRAFT RESPONSE:**

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

5. **OLEM** The Administration’s budget request zeroed out the funding to the Department of Justice for superfund-related enforcement activities and for cost recovery efforts for the superfund program. If the goal is to get more sites cleaned up and to speed up cleanups, that seems like an odd budget request since DOJ brings money back into the federal coffers from superfund polluters – can you explain to us why the president's budget request would zero out those funds?

6. **OLEM** On December 1, 2017 EPA issued a decision not to do a final rule regarding financial assurance requirements for the hard rock mining sector. Can you tell us what the status is of the 108(b) rule making for the other industry sectors that are next in line [chemical manufacturing, petroleum and coal products manufacturing, and the electric power generation, transmission, and distribution]?
7. **OLEM** EPA announced that it could be a year before it can start cleanup of the San Jacinto River Waste Pits, which sprung a leak during Hurricane Harvey flooding. Is that because EPA officials are in the process of negotiating with responsible parties to pay for the \$115 million project?
  - a. Does EPA have a plan to address the leaking cap in the meantime?
  - b. It was also announced that once the cleanup process starts, it is expected to take about 27 months. What safeguards will EPA put in place to ensure that more damage to the cap does not occur before the removal can be completed?
8. **OGC** Administrator Pruitt, in October you announced a new policy of the Agency regarding the use of settlements to circumvent the regulatory process and indicated that EPA “will no longer go behind closed doors and use consent decrees and settlement agreements to resolve lawsuits filed against the Agency.” The issue of “sue and settle” and the ability of special interest groups to use deadline lawsuits to force EPA to issue regulations that advance their priorities on a specified timeframe has long been a concern of this Subcommittee.
  - a. As you noted in your statement about the new policy, “‘sue and settle’ cases establish Agency obligations without participation by states and/or the regulated community; foreclose meaningful public participation in rulemaking; effectively force the Agency to reach certain regulatory outcomes; and, cost the American taxpayer millions of dollars.” Has the Agency started implementing the changes?
  - b. There has been some pushback on your sue and settle proposal. How do you respond to the people, many of whom are former EPA attorneys, who say that the policy “discourages settlements when they would have been appropriate and increases agency costs?”
  - c. How do you differentiate between the negative aspects of sue and settle [lack of transparency etc. . .] and the positive? For example, regulated entities and EPA often reach agreement on a cleanup or enforcement issue, enter a settlement, and then file a lawsuit seeking court approval and enforcement of the settlement. Is your new “sue and settle” policy agency-wide? And is it a mandate to not use sue and settle in ways that shorten the administrative time it takes to get a cleanup or resolution of an enforcement action?
9. **OLEM** When was the last time EPA listed a Federal facility on the National Priorities List (NPL)?

- a. If a site scores high enough to rank on the Hazard Ranking System (HRS), will EPA list the Federal facility on the NPL?
  - b. How does OMB factor into the decision about whether to list a Federal facility on the NPL?
  - c. What if a Federal facility ranks on the HRS and the State in which it is located requests that the Federal facility be added to the NPL, will EPA list the Federal facility?
10. **OLEM/OGC** How do you reconcile Executive Order 12580 when it gives the polluter who is also the person paying for the cleanup, the right to make all of the decisions with respect to the remedy with no oversight from EPA?
11. **OLOEM** How will EPA build consistency into how the Regions manage CERCLA cleanups?
12. **OLOEM** What is the timing for the issuance of the Record of Decision for the Westlake Landfill in Bridgeton, Missouri?
13. **OLOEM** The Superfund Task Force conducted a 30-day review of the program and released 42 recommendations in July. The Task Force reemphasized long accepted concepts that are necessary to ensure remedies are consistent nationwide, data-driven, and efficient – such as adaptive management, early actions, technical oversight, and strengthening partnerships with stakeholders. You also revised the delegation of authority procedures to require that remedies potentially totaling more than \$50 million must receive approval from the Administrator, which will help promote regional accountability.
  - a. How have you been implementing the recommendations of the Task Force at sites with existing Records of Decision and how will you implement the recommendations with new cleanups?
  - b. How will EPA ensure that Regional offices closely follow the principles set forth by the Agency’s 2005 Sediment Guidance and the National Contingency Plan?
  - b. Since many of the Task Force’s recommendations require further action, what is your timeline and plan for next steps?

**The Honorable David McKinley**

1. **OAR** Mr. Administrator - when EPA finalized the “coal ash” regulations, they adopted in the self-implementing rule a “one-size-fits-all” approach that does not allow for the consideration of site specific, risk-based factors.

I appreciate that EPA has committed to reconsider elements of the rule. The timing of these revisions is critical to ensure that the power sector has regulatory certainty.

- a. Can you provide an update on how this process is going?
2. **OP/OAR** As you know, a federal district court ordered EPA in January this year to begin to implement section 321 of the clean air act. This provision from the late 1970s provides that the administrator “shall conduct continuing evaluation of potential loss or shifts in employment...”
  - a. What are your plans for implementing this provision? What can you tell us about your timeline?
  - b. Will you work with me to identify whether statutory changes will help make for a more useful and transparent section 321 program?
3. **OAR** Small refineries have an inherent hardship in complying with the renewable fuel standards. These refineries do not have the ability to pass the rin cost on to their customers. It would put them at a competitive disadvantage to do so.

Congress has clearly stated its intent regarding this.

- a. What is the agency doing to address streamlining and improving the hardship petition process?
4. **OAR** Mr. Administrator – we understand that one of your objectives at EPA is a revised federalism, including providing the states with a greater partnership role with EPA in administering and implementing environmental laws in the respective states. Congress’ recent enactment of the wiin act – which allows the states to implement the federal coal combustion residual – or “coal ash” – rules in lieu of the federal rule – is a perfect example of this philosophy and provides your administration with the opportunity to put this goal into action.

Unfortunately, however, we have heard from some of the states that EPA has been slow in reviewing and approving state program applications to operate the ccr rule in lieu of EPA. Indeed, we understand that not a *single* state application has been deemed complete by EPA, which is necessary to allow for the formal review process to begin.

- a. Can we get some assurances from you that the agency will accelerate this process?
5. **OAR** The EPA's Air Enforcement Division sent an October 17 letter to the Ozone Transport Commission stating it "agrees that the 1986 [aftermarket catalytic converter emissions] policy is outdated." We encourage you to look into this issue. U.S. manufacturing jobs are threatened and U.S. consumers are already being harmed by this outdated policy.

Are you aware of how U.S. manufacturers of aftermarket catalytic converters are being severely impacted by an outdated EPA policy guidance that guides the industry?”

**The Honorable Marsha Blackburn**

1. **OAR** An Obama-EPA rule from 2016 would have required glider kit vehicles – which are made with *old* engines, and are not new vehicles – to comply with Phase 2 EPA greenhouse gas emission standards that were targeted solely for *new* vehicles and engines. This rule would have had a devastating impact on the state of Tennessee, resulting in a loss of \$512 million-dollars in economic output and a loss of 947 jobs. The rule would have been particularly harmful for small businesses that create and sell refurbished trucks using glider kits, providing an alternative in the medium and heavy-duty truck market that is 25% less expensive than buying a new truck. Mr. Pruitt, I want to thank you on behalf of the hundreds of Tennesseans who still have their jobs because of your common-sense action to reverse the previous administration’s meritless and radical position.
  - a. Following up on that, do you agree that the needs of small business job creators should be taken into account when setting regulations that impact industries dominated by small businesses?
  - b. What can we do as a legislative body to ensure future abuses such as these do not take place again?
  - c. Can you discuss some of your efforts to reconsider regulations that pose an undue burden on small businesses?
2. **OP/OGC** In accordance with the President’s Executive Order 13777, your Agency began a process of reviewing EPA regulations in need of reform because they eliminate or inhibit job creation, are outdated, ineffective, or unnecessary, impose costs that exceed benefits, or create legal inconsistencies.
  - a. What is the status of this review?
  - b. What are your planned next steps?
  - c. What timeline do you envision for implementing the recommendations?
3. **OAR** On November 30, 2017, EPA finalized volume requirements under the Renewable Fuel Standard (RFS) program for 2018 for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel, and biomass-based diesel for 2019. The 2007 law shaping the RFS required EPA to study and report to Congress on whether the RFS will adversely impact air quality. To date, EPA has never completed that study. EPA was also required to report to Congress on the RFS’ impacts to the environment and resource conservation every three years. To date, EPA has issued only one report – in December 2011. Administrator Pruitt, when can Congress expect the EPA to comply with the law and provide the necessary studies?

### **The Honorable Gregg Harper**

1. **OLEM** Mississippi is home to a significant forest products industry. The EPA, under the Obama Administration, drafted and imposed a wood products procurement regulation that allows only for Forest Stewardship Council – or FSC – certified products to be purchased by the government, which bars the purchase of products certified by other credible forest certification standards, such as the American Tree Farm System (ATFS) or Sustainable Forestry Initiative. This regulation, which is now under review, excludes a significant number of family forest owners in the United States with homegrown products certified by other reputable standards. 1) Could you please provide a status update on the current review process? 2) What potential changes can be made to improve this policy that currently puts American forest owners at a disadvantage?
2. **OW** In the 113<sup>th</sup> Congress, EPA was provided discretion over the allocation of approximately \$12.7 million in annually appropriated EPA technical assistance funding. The EPA used the discretion to eliminate the two full-time circuit rider technical assistance positions in Mississippi and other states. In response to concern raised by my rural and small community water constituents, I introduced legislation to reauthorize and direct the technical assistance funding to where it is most helpful. Senator Wicker’s companion bill was signed into law in 2015. I appreciate EPA’s July 25, 2017, response to a June 9, 2017, Senate letter in which EPA committed to following the intent of the Grassroots Rural and Small Community Water Systems Assistance Act (PL 114-98). 1) Could you please provide an update on implementation of the law and the possibility of the two-full time circuit rider technical assistance positions being re-established in Mississippi?

### **The Honorable Bill Johnson**

1. **OAR** As is true in a lot of areas around the country, job creators in my district are having a difficult time obtaining New Source Review air permits in order to build or upgrade manufacturing facilities or power plants, which is hurting our local economy and employment opportunities. And, as the recent DOE report on electricity markets and grid reliability further emphasizes, “NSR creates an unnecessary burden that discourages... investments in efficiency because of the additional expenditures and delays associated with the permitting process”.
  - a. Do you agree that issuing New Source Review permits takes too long and is unnecessarily complex?
  - b. What is EPA doing to assess the impact of current NSR review requirements on decisions to modernize facilities and power plants?



- c. What reforms may EPA make administratively to improve the New Source Review permitting program so that we can continue to improve air quality and achieve economic growth?

**The Honorable Kevin Cramer**

1. **OAR** After 2022, EPA is required to set volumes for total renewable fuel, advanced biofuel, cellulosic biofuel, and biomass based diesel. The assumption is the total renewable fuel volume would contain some amount of conventional biofuel. The statute, however, does not set a minimum amount for conventional biofuel because it does not specify a minimum volume for the total renewable fuel. Thus, EPA could set the total renewable fuel volume as the same as the advanced biofuel volume.
  - a. Does the current statute have a specific requirements for corn-based ethanol until 2022?
  - b. Does the statute require a minimum volume of total renewable fuel for each year following 2022?
  - c. Is it your belief that after 2022, the RFS gives significant preference to advanced biofuels over conventional corn-based ethanol?
2. **OAR** The implied mandate for corn-based ethanol is set at 15 billion gallons until 2022. As the statute is written today, do you view this 15 billion gallons as a ceiling or a floor?
  - a. If floor: What in the statute leads you to believe the RFS will require more than 15 billion gallons of corn-based ethanol?
3. **OAR** The prior Administration proposed the Renewable Enhancement and Growth Support (REGS) Rule in 2016 and took comment on the potential for capturing RINS from renewable electricity used to charge electric vehicles.
  - a. Where does this proposal currently stand?
  - b. Is the EPA planning to continue to finalize the REGS Rule?
4. **OAR** A number of ethanol producers in my state have talked to me at length about the benefits of high-octane fuels which are said to provide substantial engine efficiency benefits. They indicated a wealth of information has been provided to the EPA in support of such a fuel with 30 percent ethanol.
  - a. Can automakers now certify their engines on these fuels?
  - b. If not, why not? If so, what is the process?

### **The Honorable Tim Walberg**

1. **OLEM** Administrator Pruitt, one of the priorities of this Subcommittee has long been to, where appropriate, give more authority to the states and it has been suggested that there are aspects of the Superfund program that would be better handled by the states.
  - a. What are your thoughts on delegating portions of the CERCLA cleanup authority to states that can demonstrate the ability to conduct certain superfund cleanups?
2. **OCSPP** At present, there are no standard EPA methods for analyzing PFAS in environmental media, but EPA officials have stated the agency will have draft methods for water and solids by fall 2017. For the purpose of Michigan's continued engagement on this critical issue, as well as the betterment of EPA's developing approach to addressing PFAS nationwide, when do you expect these methodologies will be complete?
3. **OW** The EPA issued a drinking water health advisory for PFAS in May 2016, however, the advisory is non-enforceable and non-regulatory. Do you foresee changes to EPA's role in regulating PFAS contamination at the national level?
4. **OAR** In the Motor Fuels Act of 1988 Congress established a variety of alternate fuel incentives to be used by NHTSA in the administration of the CAFE fuel economy regulations. EPA originally used the same statutory incentives as NHTSA therefore vehicle emissions and fuel economy incentives were harmonized. But in 2012, under the previous administration, EPA diverged from this harmonization by favoring electric vehicles over other alternative fuel vehicles thereby nullifying Congressional intent. Do you think it would be good policy for EPA to return to its previous approach and harmonizing its emissions incentives with NHTSA's fuel economy incentives?

### **The Honorable Buddy Carter**

1. **OAR** The EPA issued a review of the Phase 2 Greenhouse Gas Rule for Medium and Heavy-Duty Trucks and in November the EPA issued a statement on the review of glider kits. However, we haven't seen any announcements about progress with truck trailers. Are you currently reviewing trailers as part of the rule and if so, what is the status? Please provide an update on the rulemaking process and any progress that has been made.
2. **OLEM** Which recommendations from the Super Fund Task Force have been implemented?
3. **OLEM** The EPA recently announced the full or partial removal of Superfund sites from the National Priorities List. How many cleanups will the EPA pursue in 2018 and what will those be?
4. **OLEM** In June, the EPA announced an interim remedy for the Superfund site located at Terry Creek in my district. What is the status of that effort?

5. **OLEM** This committee has been looking to make sensible reforms to the program. Are there any legislative actions that this committee would need to take to aid in reforming the program?

**The Honorable Michael Burgess**

1. **OGC/OECA** In my State of Texas, we have become too familiar with the EPA making examples of a few people to scare everyone else into compliance. Could you explain why you are intentionally moving away from heavy handed regulatory treatment and moving more toward building partnerships with States and industry to improve the environment?
2. **OP** Some of your critics view the EPA as if it's a factory; where success is measured by the quantity of rules issued, grants passed out, or enforcement cases brought. Rarely do people size up EPA by compliance achieved or improvements in the environment. What goals, budgetary or otherwise, are you setting for individual programs and what metrics are being used to measure progress or success of an office or program?
3. **OLEM/OECA/OGC** I'd also like to touch on the spill at the Gold King Mine. Shortly after the spill occurred there, I visited the mine to observe the impact myself and was shocked by the severe the damage was at that time. Could you please provide me an update on the situation there and the status of the claims brought by the victims?
4. **OARM** EPA's authority to use the Title 42 hiring authority derives from an appropriations rider and not legislation originating from either the House Energy & Commerce or Senate Environment & Public Works Committees. Does the EPA intend to continue to use Title 42 to hire and pay new and existing employees under this authority?
  - a. Does EPA intend to formally ask the authorizing committees for special hiring authority or will it continue to base its authority on the appropriations rider?
  - b. Has EPA ever formally or informally requested such authority from the authorizing committees? If so, when?
  - c. Has the EPA ever proposed language similar to the Title 42 hiring authority be included in any of its authorizing legislation?
  - d. Does EPA intend to continue to request that the Appropriations Committee include this rider in future appropriations legislation?
  - e. Does EPA intend to ask the Appropriations Committee for any increase to the currently allowed number of employees it may pay under Title 42?

**The Honorable Frank Pallone**

**Superfund:**

**OLEM** During the hearing, you suggested that you proposed cutting the budget for Superfund cleanups because more money is not needed. You also said that there are very few orphan sites, meaning sites that will require public cleanup funds. However, in 2015, the Government Accountability Office found that as federal funding for cleanups has declined, the number of construction completions and remedial action completion declined while the number of National Priority List sites remained constant. In other words, less money buys fewer needed cleanups.

1. How many sites, exactly, on the National Priority List require public cleanup funds?

**Environmental Justice:**

**OP/OLEM** Since the issuance of Executive Order 12898 in 1994, EPA has been required to incorporate the goal of environmental justice into its mission. As part of that executive order, and in keeping with Title VI of the Civil Rights Act of 1964, EPA is required to ensure all of its activities that affect human health and the environment do not directly or indirectly discriminate on the basis of race, color, or national origin.

2. What are you doing to ensure that EPA's response and recovery efforts in Puerto Rico and the U.S. Virgin Islands comply with the Executive Order on environmental justice and the Civil Rights Act?

**OP/OLEM** Environmental justice is also a serious concern in the Agency's response to Hurricane Harvey because of disparities between communities affected by that storm.

3. What have you been doing to ensure that EPA's response and recovery efforts in Texas comply with the Executive Order on environmental justice and the Civil Rights Act?
4. What direction, if any, have you given to your Regional Administrators and other regional staff with regard to ensuring environmental justice in EPA's hurricane response? Please provide any memoranda or email correspondence you or your staff have sent to regional staff on the subject of environmental justice and hurricane response.
5. Who on your staff is tasked with coordinating response efforts across the regions to ensure equal treatment for the people of Puerto Rico and the U.S. Virgin Islands?

**OP/OGC** Since assuming your position as Administrator, you have delayed or abandoned numerous rules and regulations that would have protected vulnerable communities.

6. Do you believe that your decision to abandon EPA's proposed ban of the dangerous pesticide chlorpyrifos complies with the Executive Order on environmental justice and the Civil Rights Act?
7. Do you believe that your decision to delay the important amendments to the Risk Management Planning program complies with the Executive Order on environmental justice and the Civil Rights Act?

8. Do you believe that your actions delaying notifying communities that are out of attainment with the 2015 ozone National Ambient Air Quality Standard complies with the Executive Order on environmental justice and the Civil Rights Act?
9. Do you believe that your decision to repeal the Clean Power Plan complies with the Executive Order on environmental justice and the Civil Rights Act?
10. Do you believe that your decision to delay revisions to the Lead and Copper Rule complies with the Executive Order on environmental justice and the Civil Rights Act?

#### **Management of Toxic Pesticides:**

11. **OCSPP** Documents reveal that Monsanto employees may have ghostwritten scientific papers on glyphosate, including papers published in the journal *Regulatory Toxicology and Pharmacology*, which has an editorial board populated by industry scientists, lawyers and consultants with clear financial ties to the chemical industry. Has EPA relied on those studies in its evaluation of glyphosate?
12. **OCSPP** Did EPA rely on studies from that journal in its decision to deny the petition to ban chlorpyrifos?
13. **OCSPP** In 2015, the Food and Drug Administration (FDA) agreed with recommendations from GAO<sup>1</sup> that glyphosate monitoring should be done, but subsequently suspended its efforts to conduct that monitoring.<sup>2</sup> Documents suggest that this decision may have been made under pressure from an EPA employee working with Monsanto. Please provide any email or other correspondence between EPA employees and FDA employees regarding glyphosate monitoring.
14. **OCSPP** EPA's March 30 decision on chlorpyrifos will allow continued use of this dangerous pesticide on golf courses. Did trade associations representing the Trump Organization golf courses, or lobbyists who represent the Trump Organization, communicate with EPA, the White House, or the Trump transition team regarding the March 30 decision or chlorpyrifos in general?

#### **Transparency:**

**OP/OGC** Nearly thirty-five years ago, in his landmark "Fishbowl Memo," Administrator Ruckelshaus announced that he would release his appointment calendar on a weekly basis, and he directed the Deputy Administrator and all Assistant Administrators, Associate Administrators, Regional Administrators, and Staff Office Directors to do the same. Administrator Ruckelshaus emphasized that "EPA will not accord privileged status to any special interest group" and that the

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<sup>1</sup> U.S. Government Accountability Office, "Food Safety: FDA and USDA Should Strengthen Pesticide Residue Monitoring Programs and Further Disclose Monitoring Limitations" (Nov. 6, 2014).

<sup>2</sup> Gillam, C. *FDA Suspends Testing for Glyphosate Residues in Food* (Nov. 11, 2016) ([http://www.huffingtonpost.com/carey-gillam/fda-suspends-glyphosate-r\\_b\\_12913458.html](http://www.huffingtonpost.com/carey-gillam/fda-suspends-glyphosate-r_b_12913458.html))

public should be “fully aware of [top officials’] contacts with interested persons.” In the intervening decades, Administrators serving under both Democratic and Republican Administrations have upheld this practice. But your senior management team has yet to release its calendars, undermining agency transparency and raising questions about who may be accessing and influencing top EPA officials. EPA has recently provided the public with a “summary” of your calendar, and provided some heavily redacted records of your calendar through March 31. But the agency still has not released the actual records of your daily calendars since March, despite numerous FOIA requests for them.

15. Will you commit to making your schedule public on a regular basis, so that Congress, the press, and ordinary Americans can see who you are meeting with?
16. Will you commit to directing your senior officials to release their calendars on a regular basis?

**OEI/OGC** We are also concerned about delays in EPA’s response to FOIA requests under your administration. EPA’s failure to meet the deadlines specified in the Freedom of Information Act results in legal violations, which then subject EPA to repeated lawsuits.

17. Given the legal expenses and waste of resources caused by EPA’s failure to comply with FOIA deadlines, do you agree that EPA should streamline the review process for release of documents to eliminate any unnecessary steps, such as multiple levels of document review?
18. Do you think it is appropriate for political appointees and advisors to hold up the release of document for further review, even when documents have already been determined to be public documents not subject to FOIA exemptions by FOIA officers and FOIA attorney advisors?
19. Why would it be necessary for the documents to undergo a political review if they are public documents under the law?
20. It appears that EPA has now adopted a policy of responding to FOIA requests based only or primarily on the date of the request, regardless of the type of information requested, the simplicity of the request, or the relevance of the information to the public. Is that correct?
21. If not, please describe in detail the criteria that EPA is now using to prioritize processing FOIA requests?
22. Given EPA’s large backlog, under your current approach, how long will it be before you respond to a substantial number of requests regarding your tenure and release documents generated during your tenure (besides those documents that EPA releases when a lawsuit is filed)? Please provide an estimate in weeks, months, or years.
23. Will you establish a policy of responding to new FOIA requests on an ongoing basis, rather than relegating them to the back of the line and without waiting to be sued on each request?

**OGC** It has been reported that you and other political appointees have directed staff to avoid creating public records that could be subject to FOIA requests, such as directing staff to provide

internal policy decisions orally instead of by electronic mail or directing staff not to take notes in meetings.

24. Do you agree that EPA is required to create and maintain records that document the formulation of the agency's decisions, and the people and matters dealt with by the agency, so that proper scrutiny by Congress and other agencies is possible?
25. Have you or other political employees provided any direction to staff that could discourage them from creating such records?

**Contract with Definers Public Affairs:**

**OPA/OGC** On the day you testified before Energy and Commerce, EPA entered into a no-bid contract with Definers Public Affairs to provide “news analysis and brief service focusing on EPA work and other topics of interest to EPA.”<sup>3</sup> The awarding of this contract without full and open competition to a company with no apparent experience in providing these services to a Federal agency is concerning, as are the political lobbying activities of the firm. Though Definers recently terminated the contract with EPA, we have outstanding questions regarding EPA’s selection of Definers and whether the Contract was an appropriate use of taxpayer dollars.

26. What was your role in selecting Definers for this award? In addition to yourself, which EPA political appointees were involved in selecting Definers? Please provide all communications between yourself and all other EPA political appointees and any Definers representative between February 17, 2017 and December 7, 2017.
27. Were you or other EPA political appointees aware of the FOIA requests filed by Definers employees against individual agency employees before the contract was awarded? Were those FOIA requests considered in the identification of Definers as a potential candidate for the Contract, or a factor in ultimately awarding the Contract?
28. Was Definers, AmericaRising, or any of their agents involved in creating or funding the website ConfirmPruitt.com?
29. Were you, any of your agents, or any current EPA employees involved in generating or reviewing the content of the website ConfirmPruitt.com, or providing or raising funds for the site? Did any representative of Definers, America Rising, or America Rising Squared generate or review content for the website?
30. What work did Definers perform for EPA pursuant to the contract? Please provide a list of all services performed by Definers for EPA during the duration of the contract, including the date, the service provided, time required, the itemized cost, and the name of the Definers employee who performed the work. What was the total amount of taxpayer funds EPA paid Definers during the duration of the contract? Please provide copies of all communications between EPA and any representative of Definers, America Rising, America Rising Squared, and the Need to Know Network during calendar year 2017.

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<sup>3</sup> EPA Award Number EP18H000025 to Definers Corps. (Dec. 7, 2017)

31. On December 10, the New York Times published an article identifying an alarming decrease in enforcement actions brought by the EPA during your administration.<sup>4</sup> EPA issued an unusual press release in response, which has since been removed from the agency website but continues to be cited by conservative media sources. What role did Definers play in the agency's response to the December 10<sup>th</sup> article? Provide any correspondence between EPA and any representative of Definers, America Rising, America Rising Squared, and the Need to Know Network regarding the December 10<sup>th</sup> article.
32. What firewalls were in place in the contract with Definers Corp to ensure that Definers firewalled the media monitoring services provided under the Contract from its services that would violate the Publicity or Propoganda Prohibition and Anti-Lobbying provisions?
33. Please provide a copy of the contract between EPA and Definers Corp. including any statement of work.

**Enforcement:**

**OECA** As noted above, on December 10, the New York Times published an article identifying an alarming decrease in enforcement actions during your administration. Specifically, their analysis shows your EPA has brought one quarter fewer cases than President George W. Bush's EPA and one-third fewer cases than President Barack Obama's EPA over comparable periods. The analysis also shows that you have sought significantly smaller amounts in civil penalties.

34. Can you explain why EPA has pursued fewer enforcement cases under your leadership?
35. Please describe any complaints you have received from communities/others who have been seeking, but apparently failing to receive relief from EPA from polluters?
36. Have you been asked by anyone in industry to change EPA's enforcement policies?
37. If so, please describe those conversations.
38. Can you explain any changes you have made to testing procedures and policies (e.g. requests for information) permitted by your regional offices, enforcement officers or other EPA staff, why those changes were made and what effect they have had on enforcement?

**Co-Benefits of Air Rules:**

**OGC** You have questioned EPA's prior evaluations of public health protections that have included "co-benefits" of deadly particulate matter.

39. Do you agree there is judicial precedent upholding EPA's approach to consider co-benefit pollution reductions?
40. Why or why not?

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<sup>4</sup> Eric Lipton and Danielle Ivory, *Under Trump, EPA has Slowed Actions Against Polluters, and Put Limits on Enforcement Officers*, New York Times, (Dec. 10, 2017), <https://www.nytimes.com/2017/12/10/us/politics/pollution-epa-regulations.html>



41. Are you planning to seek legal review of this matter?
42. Are you planning to try to change the way co-benefits, like PM2.5, are counted or considered in EPA rulemakings?
43. If so, why and what evidence do you have to support such a change?

**Ozone:**

**OAR** For the 2015 Ozone rule, the Clean Air Act required all states and Tribes to submit attainment designation recommendations by October 1, 2016, and EPA was required to finalize area designations a year after. On November 6, the agency issued attainment designations for those areas that meet the 2015 standard, however EPA failed to release any nonattainment designations. In response to questions about EPA missing deadlines associated with the 2015 Ozone rule, you said the delay was due to “information that has not been provided by the states.”

44. Please provide a list of all states or Tribes who have not submitted designation recommendations to EPA for the 2015 Ozone standard. What information is still outstanding from these states or Tribes?
45. To date, has EPA notified any states or Tribes that it intends to modify any of their recommended designations? Please provide the Committee with a list of these states or Tribes, and copies of the notice provided by EPA.
46. Have you been in contact with any industry representatives or states about delaying the implementation of the 2015 Ozone standard as it relates to finalizing the remaining designations? If so, please describe the nature of your meetings and communications.
47. The Unified Regulatory Agenda included a reference to using “additional time afforded by the designations extension to finalize necessary guidance” related to the 2015 Ozone standards. However, after legal challenges from states and others, you walked back your effort to delay implementation of these standards.
  - a. Can you clarify what “extension” this refers to in the Unified Agenda?
  - b. Why would EPA need an extension to issue remaining designations?
48. When can we expect EPA to issue the remaining designations?
49. Who is on the Ozone Compliance Task Force, and what is its roll in implementing the 2015 Ozone standard? Please provide the Committee with a list of participants, schedule, meetings, materials, and communications.

**Climate Change:**

50. **OAR** Federal courts have held that the quantity of emission reductions to be achieved is an important consideration in determining the “best system of emission reduction” for sources under section 111 of the Clean Air Act. What weight will you give to achieving significant emission reductions in considering a replacement for the Clean Power Plan?

**OAR** At the hearing you questioned the integrity of the rulemaking that led up to EPA’s December 2009 science-based finding that greenhouse gas pollution endangers public health and welfare. As you know, EPA received over 380,000 comments on the Endangerment Finding, responded to 10 petitions for reconsideration, and explained its determination in almost one thousand pages of documentation in the Federal Register and supporting technical documents. A three-judge panel of the D.C. Circuit unanimously upheld that finding in 2012 against a barrage of legal challenges, finding that it was supported by ample evidence and that EPA had appropriately relied on authoritative analyses by the Intergovernmental Panel on Climate Change, the U.S. government and other sources.

51. Please explain why you continue to question the process that led to the Endangerment Finding in light of this history and the D.C. Circuit’s decision?

**OAR** You recently stated that you intend to move forward imminently with a so-called “red team” exercise in which you will convene rival panels of scientists to debate climate science, just weeks after the Administration’s Global Change Research Program released a “Climate Science Special Report” confirming that human activities are “the dominant cause” of observed climate change, and that climate change is already having adverse impacts around the country. This report was authored by scientists from multiple Federal agencies, national laboratories, universities, and the private sector, and went through six stages of external review including review by the National Academies of Sciences, Engineering, and Medicine and an open public comment period.

52. Please explain why the “red team” exercise a good use of scarce Agency resources in light of the extraordinary research and review that the Administration invested in the CSSR?

**Budget:**

**OCFO** It was recently reported that officials at the Center for Disease Control and Prevention are being directed to not use seven words or phrases in official documents for the FY 2019 Budget. The forbidden words are “vulnerable,” “entitlement,” “diversity,” “transgender,” “fetus,” “evidence-based” and “science-based.”

53. Is EPA also barred from using “vulnerable,” “entitlement,” “diversity,” “transgender,” “fetus,” “evidence-based” or “science-based,” in official budget documents?
54. Does EPA have a list of forbidden words or phrases for official budget documents? If so, please provide the Committee with such list.

**OCFO/OARM** EPA has been experiencing a workforce reduction, including through the use of buy-outs.

55. Please detail the status of workforce reductions conducted to-date, during this administration, including overall net personnel reductions?
56. In what offices and programs have net reductions occurred?
57. Please detail the categories in which workforce reductions have occurred in 2017, such as buy-outs, other voluntary separations, reductions-in-force, etc.
58. In 2018, what additional workforce reductions are planned, assuming funding is available to accomplish them?
59. In which programs and offices are reductions planned?
60. What closures or other changes to the current EPA regional offices or labs are planned for 2018 or beyond?

### **The Honorable Paul Tonko**

#### **1. Travel to Morocco**

**OP** On December 12, EPA issued a press release, “Administrator Pruitt Promotes Environmental Cooperation with U.S. Partners in Morocco.” While no members of the press accompanied you on this trip, it was reported that the purpose of the trip was to promote U.S. natural gas exports.

- a. Please provide an itinerary of your trip along with total estimated costs to U.S. taxpayers for you and any accompanying staff, including security details.
- b. How does promoting U.S. LNG exports fit into your “Back to Basics” agenda?
- c. What authority does EPA have related to the exportation, sale, or promotion of U.S. LNG?
- d. Please provide a list of companies, trade associations, or natural gas industry representatives that you or your staff have been in contact with regarding U.S. LNG exports. Please provide all records, communications, emails, meeting attendance or materials for any of these interactions.
- e. This trip was not publicly announced until EPA issued a press release once you had already arrived in Morocco. Moving forward, will you commit to publicly announcing all foreign and domestic trips prior to traveling?

#### **2. Science at EPA**

**ORD/OAR** In the draft FY 2018-2022 EPA Strategic Plan, you have promised to “prioritize robust science.” Under Objective 3.3 of the draft plan, you say that “EPA will identify, assess, conduct, and apply the best available science to address current and future environmental hazards, develop new approaches, and improve the scientific foundation for environmental protection decisions.”

- a. Do you commit to ensuring that the EPA's actions and policies are guided by the latest climate science, as reflected in Volume 1 of the Fourth National Climate Assessment (also known as the Climate Science Special Report or CSSR), and as described in statements and reports from the National Academy of Sciences?
- b. Do you agree with the CSSR's conclusion that "it is *extremely likely* that human influence has been the dominant cause of the observed warming since the mid-20th century... For the warming over the last century, there is no convincing alternative explanation supported by the extent of the observational evidence"?
- c. Do you commit to making information about climate change prominently available on the EPA's website, alongside information about other critical issues related to human health and the environment?
- d. Regarding the October 31 Science Advisory Board directive, can you please provide specific examples of when an EPA grant recipient on an advisory committee provided conflicted advice?
- e. On October 22, the New York Times reported, "E.P.A. Cancels Talk on Climate Change by Agency Scientists." Why were EPA scientists prohibited from speaking at a Rhode Island conference on climate change?
- f. Moving forward, will EPA scientists have the opportunity to communicate publicly about their research?

### 3. **Advisors to the Administrator**

**OP/OGC** On December 13, it was reported that Dr. Michael Dourson withdrew his name to serve as Assistant Administrator for the Office of Chemical Safety and Pollution Prevention.

- a. In October, it was reported that Dr. Dourson was already working at the agency as an Adviser to the Administrator. Can you confirm whether Dr. Dourson has left the agency?
- b. If not, what are the roles and responsibilities of Dr. Dourson?
- c. What ethics or conflict of interest agreements apply or applied to Dr. Dourson in his role as Advisor to the Administrator?
- d. You testified that the October 31 Science Advisory Board directive was driven by a concern that "a perception or an appearance of a lack of independence in advising the Agency." Did any EPA leadership have a conversation or express concerns about the perception of conflict of interest from Dr. Nancy Beck's involvement in revising the TSCA framework rules after leaving a position with the American Chemistry Council?

### 4. **Enforcement Actions and Monitoring**

**OCFO** On December 10, the New York Times reported that EPA regional staff must seek authorization from HQ before asking companies to track their emissions. Monitoring is critical to ensure that the environmental and health gains that have been made in recent decades are not undone. Power generating facilities in the Midwest emit sulfur dioxide and nitrogen oxides, which are the major precursors of acid rain which has caused the acidification of many Adirondack lakes and ponds.

- a. The Adirondack Lake Survey Corporation receives EPA funding for long-term monitoring of water quality recovery from acid rain. Do you support continuation of this long-term monitoring funding?

## **5. Hudson River Superfund Site**

**OLEM** The State of New York has stated that the Hudson River PCB cleanup has not met the goals of the program, and that additional action is needed. Federal Natural Resource Trustees have also expressed concerns. The EPA Region II office does not appear to acknowledge the scientific basis of the state's and Trustee's analysis.

- a. Will EPA reconsider the recommendations of the Second Five-Year Review Report in light of the analysis done by the State and Trustee agencies?

## **6. OIG**

**OGC** The Office of Inspector General (OIG) Semiannual Report: April 1, 2017 - September 30, 2017 raised a number of issues about interference with the OIG's independence. From that report:

"A second budget impediment occurred when the OIG submitted an FY 2019 request for \$62 million to the agency for inclusion in the President's budget. Without seeking input from the OIG, the agency provided us with a request of \$42 million. The agency informed the OIG that the Office of Management and Budget mandated budget requests Semiannual Report to Congress April 1, 2017—September 30, 2017 13 could not be more than a certain percentage above the President's FY 2018 budget. The EPA also informed the OIG that the \$42 million request would not change. The OIG submitted a memorandum to the Office of Management and Budget stating the OIG's original budget request, and explaining that the EPA's submitted budget did not reflect the OIG's desired funding levels and would have significant negative impacts on OIG operations."

- a. Do you believe a fully funded, independent Inspector General is necessary for EPA to run as an efficient and accountable agency?

## **7. IRIS**

- a. **ORD** How do you view the role of IRIS relative to ensuring full implementation of the TSCA program?
- b. **ORD** Will you commit to fully supporting the IRIS program?

**The Honorable Diana DeGette**

1. **OAR** Methane is up to 34 times more potent a greenhouse gas than carbon dioxide and makes up approximately ten percent of annual greenhouse gas emissions in the United States. Despite the harm methane can cause, the EPA has proposed delaying rules that would have curbed methane emissions from oil and gas industry sources. The proposed delay of the 2016 methane rule published in the Federal Register on June 16, 2017, states “the EPA believes that the environmental health or safety risk addressed by this action may have a disproportionate effect on children.”
  - a. Do you agree that children would be disproportionately affected by delaying methane emissions restrictions on the oil and gas industry?
  - b. What are the estimated costs of the health impact on children?
2. **OCSPP** During your testimony we discussed the decision on a final rule concerning methylene chloride use in paint stripper. You promised to review the status of the rule and provide an update soon after the hearing. Rules concerning N-methylpyrrolidone (NMP) and trichloroethylene (TCE) were proposed at the same time. Prohibitions against certain uses of NMP and methylene chloride were removed from the Fall 2017 Unified Agenda of Regulatory and Deregulatory Actions.
  - a. The Fall Unified Agenda was released on December 14, one week after your testimony before the committee. At what point was the decision made to remove the NMP and methylene chloride rules from the Unified Agenda?
  - b. When will EPA finalize the rules for TCE, NMP, and methylene chloride under TSCA?
  - c. What role did Michael Dourson have as an EPA adviser in determining the timeline for these rules?
3. **OLEM** In response to the explosion at the West Fertilizer Plant in Texas in 2013, EPA developed updates (the “Chemical Disaster Rule”) to Risk Management Plans (RMP) requirements. This update would have included common sense reforms, including improved accident prevention provisions and enhancements to emergency response preparation. In June 2017, the implementation of this rule was delayed. The rule had been in development for three years and was subject to more than 40,000 public comments.
  - a. During Hurricane Harvey, the Arkema Chemical plant in Crosby, Texas, experience fires due to a failure of emergency generators and backup cooling systems. First responders have filed suit against Arkema alleging that Arkema misrepresented the threat posed by chemicals at the site. A situation like this, where first responders

cannot adequately prepare to respond to emergencies at chemical production facilities, is the sort of circumstances that the Chemical Disaster Rule was designed to avoid. Have the events at the Arkema plant, where first responders were put at risk, caused you to reconsider the delay of the Chemical Disaster Rule?

- b. The proposed EPA budget for fiscal year 2018 reduced funding for inspection of sites under the RMP by 35 percent, straining a program that only has 30 inspectors for 12,500 sites. In light of the number of facilities that need to be inspected, the low frequency of inspection, and the specter of climate change related extreme weather events like Hurricane Harvey, do you still feel the cuts to the inspection program are prudent?
- 4. **OW/OCSPP** The Climax Molybdenum Mining company in Colorado has asked the state of Colorado to relax limits on molybdenum allowed in runoff from the Climax mine in Summit County Colorado. Molybdenum is on the Contaminant Candidate List 4 (CCL-4). It was also on the CCL-3. Currently, states have minimal guidance from the EPA on the potential hazards of molybdenum in drinking water.
  - a. Is EPA currently collecting data on the health or environmental impacts of molybdenum in drinking water?
  - b. Will molybdenum be part of the Regulatory Determination 4 process going forward?
- 5. **OLEM** For more than two years, I have been focused on addressing the environmental damage caused by the August 2015 release of toxic mine water from Gold King mine in San Juan County, Colorado.
  - a. I was glad to see the Bonita Peak Mining District (which includes Gold King mine) was included on the list EPA released on December 8, 2017, of sites targeted for “immediate, intense action.” Can you elaborate on the action EPA plans to take in the Bonita Peak Mining District and the expected timeline?
  - b. On December 17, 2017, the *Denver Post* reported on the success of cleanup efforts related to toxic Argentine Mine complex near Rico, Colorado. The article noted that the part of the success is that the private company legally responsible for cleaning up the site has invested “tens of millions of dollars” in the cleanup compared to less than \$5 million the EPA has invested in the cleanup of Gold King. What additional funding will EPA invest in the Gold King cleanup?
  - c. On October 19, 2017, the *Denver Post* reported that there is uncertainty regarding the ongoing costs association with the water treatment plant EPA is operating to clean up water from Gold King Mine. The annual cost of operating the plant is \$1.2 million and it produces toxic sludge while purifying the runoff. What is the EPA’s long-term plan for the plant costs?
  - d. What is the status of finding a permanent solution for the waste sludge from the plant?

**The Honorable Jerry McNerney**

1. **OAR** At the December 7<sup>th</sup> hearing, I stated that less than half of the U.S. population was included in the ozone designations laid out by the EPA. Though this statement was not made in the form of a question, Administrator Pruitt interjected, proclaiming that the lack of inclusion was due to missing information that needs to be submitted by states. However, on the EPA's website, there is a full list of state recommendations from 2015. Will the Administrator please explain his statement and what information is missing from which states?



**To:** Yaeger, Ryan[Yaeger.Ryan@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]  
**Cc:** Knapp, Kristien[Knapp.Kristien@epa.gov]  
**From:** Aarons, Kyle  
**Sent:** Wed 4/25/2018 9:39:05 PM  
**Subject:** RE: Definers Letters

Hi all – We are now planning to send these on Friday

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

Thanks,  
Kyle

Kyle Aarons  
Congressional Affairs  
U.S. Environmental Protection Agency  
202-564-7351

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**From:** Yaeger, Ryan  
**Sent:** Wednesday, April 25, 2018 4:04 PM  
**To:** Grantham, Nancy <Grantham.Nancy@epa.gov>  
**Cc:** Aarons, Kyle <Aarons.Kyle@epa.gov>; Knapp, Kristien <Knapp.Kristien@epa.gov>  
**Subject:** Definers Letters

Nancy:

Attached are the Definers responses for signature

**Deliberative Process / Ex. 5**

Thanks–

Ryan

**To:** White, Elizabeth[white.elizabeth@epa.gov]  
**Cc:** Grantham, Nancy[Grantham.Nancy@epa.gov]; Miller, Kevin[Miller.Kevin@epa.gov]  
**From:** Shapiro, Melissa  
**Sent:** Fri 6/1/2018 8:24:33 PM  
**Subject:** PEER and Southerland v. EPA Production Set for Review  
FW: Request for concurrent OPA and OW review for EPA-HQ-2018-000174  
PEER and Southerland v. EPA Complaint 1.18cv772 04.05.2018.pdf

Good afternoon, Beth.

Below is a link to a proposed production for PEER and Elizabeth Southerland v. EPA, Case No. 1:18-cv-772 (the complaint is attached for reference). I will also send you a direct link to the one drive folder immediately following this email.

We have not yet discussed [Attorney Client / Ex. 5] however, Lynn Zipf for the Office of Water had already completed the search, collection, and review of records, and Nancy Grantham had completed the OPA equity review on the original production set at the time the lawsuit was filed. Emails from Lynn suggest that you may have had an opportunity to review a portion of the records as well.

I have reviewed the records that OW prepared to release, and [Attorney Client / Ex. 5]  
[Attorney Client / Ex. 5]  
[Attorney Client / Ex. 5] I can provide additional detail on [Attorney Client / Ex. 5]  
[Attorney Client / Ex. 5] do not think that Nancy needs to re-review, but she is welcome to do so.

Nancy also mentioned in the attached email that [Attorney Client / Ex. 5]. I'll defer to you and Nancy on that point. However, I will note that [Attorney Client / Ex. 5]

**Attorney Client / Ex. 5**

**Attorney Client / Ex. 5**

Please let me know if you have any questions or if you have any difficulty accessing the OneDrive records. I can also provide access to additional reviewers.

Thanks,

Melissa Shapiro  
Office of General Counsel  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
[shapiro.melissa@epa.gov](mailto:shapiro.melissa@epa.gov)  
202-564-2890

**To:** Shapiro, Melissa[shapiro.melissa@epa.gov]  
**From:** Shapiro, Melissa  
**Sent:** Fri 6/1/2018 8:02:09 PM  
**Subject:** FW: Request for concurrent OPA and OW review for EPA-HQ-2018-000174  
[FOIA Privacy Act request Southerland signed.pdf](#)

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**From:** Zipf, Lynn  
**Sent:** Thursday, February 22, 2018 1:17 PM  
**To:** White, Elizabeth <white.elizabeth@epa.gov>  
**Subject:** RE: Request for concurrent OPA and OW review for EPA-HQ-2018-000174

Although I tried to **Deliberative Process / Ex. 5**

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Lynn Zipf  
FOIA Specialist  
Office of Water

EPA East Room 3349K  
(202) 564-1509

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**From:** White, Elizabeth  
**Sent:** Thursday, February 22, 2018 1:06 PM  
**To:** Zipf, Lynn <Zipf.Lynn@epa.gov>  
**Subject:** RE: Request for concurrent OPA and OW review for EPA-HQ-2018-000174

Lynn – can you send me the actual request (as ultimately agreed to with requestor)? Thanks.

**Beth White**  
Director, Office of the Executive Secretariat  
U.S. Environmental Protection Agency  
(202) 564-1781 direct  
(202) Personal Phone / Ex. 6

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**From:** Zipf, Lynn  
**Sent:** Thursday, February 22, 2018 11:35 AM  
**To:** Bowman, Liz <Bowman.Liz@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>  
**Cc:** Grantham, Nancy <Grantham.Nancy@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>  
**Subject:** RE: Request for concurrent OPA and OW review for EPA-HQ-2018-000174

I have worked to even out the redactions and the one attached pdf include those revisions. The other document is too large to send via email so I will share it via a one drive link. These documents are now ready for OW IO awareness review which includes Sarah and Lee. Beth – I will ask for you to coordinate any additional review beyond Lee and Sarah.

I plan to release these documents on March 1, 2018. Please advise as to any inconsistencies, edits prior to that.

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Lynn Zipf  
FOIA Specialist  
Office of Water

EPA East Room 3349K  
(202) 564-1509

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**From:** Grantham, Nancy  
**Sent:** Friday, February 16, 2018 1:58 PM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Zipf, Lynn <Zipf.Lynn@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>

**Cc:** Bowman, Liz <Bowman.Liz@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>

**Subject:** FW: Request for concurrent OPA and OW review for EPA-HQ-2018-000174 - due date 2/14/18

Hi –

I have reviewed these files. As I mentioned to Lynn, **Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

Otherwise, these are records about Betsy Southerland and Mr. Cox in Region 10's departure from the agency their subsequent comments. **Personal Matters / Ex. 6** Betsy's highest year salary is the discussion on some of the emails.

Note that there are some documents on the Definers media contract issue, as well as WOTUS (very few of both).

Of note: Lee Forsgren, Samantha Dravis and Sarah Greenwalt emails are in the collection. Also, there is a congratulatory **Personal Matters / Ex. 6** There are some emails to staff at epa from the RNC.

I am copying Liz Bowman in OPA and Beth White in OEX for awareness.

My understanding is that this collection is still to be reviewed by Dave Ross/Lee Forsgren.

Please let me know if you have any questions.

Thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**  
**Personal Phone / Ex. 6 (mobile)**

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**From:** Zipf, Lynn  
**Sent:** Wednesday, February 07, 2018 8:22 AM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>  
**Subject:** Request for concurrent OPA and OW review for EPA-HQ-2018-000174 - due date 2/14/18

Andrea, Allison and Nancy,

I am requesting review of the responsive records for this FOIA. This FOIA is requesting all internal communications and external communications with any new media representatives concerning Dr. Southerland from July 31, 2017 to present. There are about 225 responsive records. I have reviewed all of the responsive documents and applied exemption 5 and exemption 6.

Please review the attached documents and let me know **Deliberative Process / Ex. 5** Because many of these records were sent outside the agency, the deliberative exemption does not apply. It would be great if this review could be

**Deliberative Process / Ex. 5**

Please let me know if you have any questions or would like additional information.

Once you have reviewed the responsive documents, I will then route them to Lee Forsgren and Sarah Greenwalt for review.

---

Lynn Zipf  
FOIA Specialist  
Office of Water

EPA East Room 3349K  
(202) 564-1509

FWW v. EPA (18-cv-01497)

ED\_002048\_00018712-00002



**To:** Grantham, Nancy[Grantham.Nancy@epa.gov]  
**From:** Walker, Denise  
**Sent:** Wed 12/20/2017 7:13:28 PM  
**Subject:** FW: Data on FOIA response rates  
[FOIA requests data for EPA.xlsx](#)

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**From:** Wilcox, Jahan  
**Sent:** Wednesday, December 20, 2017 10:22 AM  
**To:** Dolph, Becky <Dolph.Becky@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>  
**Subject:** FW: Data on FOIA response rates  
**Importance:** High

Can you tell me which **Deliberative Process / Ex. 5**

**From:** Lipton, Eric [<mailto:lipton@nytimes.com>]  
**Sent:** Tuesday, December 19, 2017 4:35 PM  
**To:** Wilcox, Jahan <[wilcox.jahan@epa.gov](mailto:wilcox.jahan@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>; Lisa Friedman <[lisa.friedman@nytimes.com](mailto:lisa.friedman@nytimes.com)>  
**Subject:** Re: Data on FOIA response rates

It is attached here  
I guess it comes down to how the requests are defined, as Simple or Complex  
I was just struck as I looked at the responses how quickly they happened.  
But I guess one could argue that they were "simple" requests and so they were processed quickly

Eric Lipton  
  
Washington Bureau  
202 862 0448 office  
[Personal Phone / Ex. 6](#) mobile  
[lipton@nytimes.com](mailto:lipton@nytimes.com)

On Tue, Dec 19, 2017 at 4:26 PM, Wilcox, Jahan <[wilcox.jahan@epa.gov](mailto:wilcox.jahan@epa.gov)> wrote:  
This is helpful. Now we know what the standard is. What were the 17 requests?

**From:** Lipton, Eric [<mailto:lipton@nytimes.com>]  
**Sent:** Tuesday, December 19, 2017 4:02 PM  
**To:** Wilcox, Jahan <[wilcox.jahan@epa.gov](mailto:wilcox.jahan@epa.gov)>  
**Cc:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>; Lisa Friedman <[lisa.friedman@nytimes.com](mailto:lisa.friedman@nytimes.com)>  
**Subject:** Data on FOIA response rates

Eric Lipton  
  
Washington Bureau  
202 862 0448 office  
[Personal Phone / Ex. 6](#) mobile  
[lipton@nytimes.com](mailto:lipton@nytimes.com)

Eric Lipton  


Washington Bureau  
202 862 0448 office  
Personal Phone / Ex. 6 mobile  
lipton@nytimes.com

**To:** Grantham, Nancy[Grantham.Nancy@epa.gov]  
**Cc:** Aarons, Kyle[Aarons.Kyle@epa.gov]  
**From:** Knapp, Kristien  
**Sent:** Mon 4/16/2018 7:22:12 PM  
**Subject:** Definers Oversight response  
[Whitehouse News Analysis 4-16-18.docx](#)  
[Pallone Definers 4-16-18.docx](#)  
[Pallone Definers 1-5-18.pdf](#)  
[DeFazio Definers 1-3-18.pdf](#)  
[Whitehouse News Analysis 12-19-17.pdf](#)  
[Definers contract documents.pdf](#)

Hi Nancy,

Our response to congressional oversight requests about the Definers contract is now ready for signature. I'm attaching the 3 incoming letters, our responses and the redacted documents that we'll send as enclosures. This response has been reviewed and approved by OARM, OGC, and OCIR. Please let us know if you or Liz have any feedback or questions. I'd be happy to print it out for Liz to sign if you can point me towards OPA letterhead. My understanding is **Deliberative Process / Ex. 5** hearing next week.

Thanks,  
Kristien

Kristien Knapp  
Legislative and Oversight Counsel  
Office of Congressional Affairs  
U.S. Environmental Protection Agency  
(202) 564-3277



**To:** Levine, Carolyn[Levine.Carolyn@epa.gov]; Albores, Richard[Albores.Richard@epa.gov]; Moody, Christina[Moody.Christina@epa.gov]; Gomez, Laura[Gomez.Laura@epa.gov]  
**Cc:** OGC HQ ADDs[OGC\_HQ\_ADDs@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; OGC Immediate Office MGMT[OGC\_Immediate\_Office\_MGMT@epa.gov]; Lewis, Jen[Lewis.Jen@epa.gov]; Michaud, John[Michaud.John@epa.gov]; Redden, Kenneth[Redden.Kenneth@epa.gov]  
**From:** Packard, Elise  
**Sent:** Fri 1/26/2018 9:45:38 PM  
**Subject:** RE: CONSOLIDATED RESPONSES re: 12.7.17 Environment Subcmte Hearing - DUE TODAY COB (4PM)

Looks good to me

Elise B. Packard  
Associate General Counsel for Civil Rights and Finance  
U.S. EPA Office of General Counsel, Rm. 7353C  
(202) 564-7729

**From:** Levine, Carolyn  
**Sent:** Friday, January 26, 2018 4:44 PM  
**To:** Albores, Richard <Albores.Richard@epa.gov>; Moody, Christina <Moody.Christina@epa.gov>; Gomez, Laura <Gomez.Laura@epa.gov>  
**Cc:** OGC HQ ADDs <OGC\_HQ\_ADDs@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; OGC Immediate Office MGMT <OGC\_Immediate\_Office\_MGMT@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>  
**Subject:** RE: CONSOLIDATED RESPONSES re: 12.7.17 Environment Subcmte Hearing - DUE TODAY COB (4PM)

# Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Please let me know any questions. -Carolyn

**Burgess 3.**  
**R8/OLEM/OGC** I'd also like to touch on the spill at the Gold King Mine. Shortly after the spill occurred there, I visited the mine to observe the impact myself and was shocked by the severe the damage was at that time. Could you please provide me an update on the situation there and the status of the claims brought by the victims?

**Response:** Deliberative Process / Ex. 5

# Deliberative Process / Ex. 5

**From:** Albores, Richard

**Sent:** Friday, January 26, 2018 4:13 PM

**To:** Moody, Christina <Moody.Christina@epa.gov>; Gomez, Laura <Gomez.Laura@epa.gov>

**Cc:** Feeley, Drew (Robert) <Feeley.Drew@epa.gov>; OGC HQ ADDs <OGC\_HQ\_ADDs@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; OGC Immediate Office MGMT <OGC\_Immediate\_Office\_MGMT@epa.gov>; Jones, Monica <Jones.Monica@epa.gov>; Moser, Rebecca <Moser.Rebecca@EPA.GOV>; Jones-Parra, Lisa <Jones-Parra.Lisa@epa.gov>; Levine, Carolyn <Levine.Carolyn@epa.gov>

**Subject:** CONSOLIDATED RESPONSES re: 12.7.17 Environment Subcmte Hearing - DUE TODAY COB (4PM)

**QFRs assigned to OGC as sole/joint author**

**Shimkus**

8. OGC (Immediate Office) Administrator Pruitt, in October you announced a new policy of the Agency regarding the use of settlements to circumvent the regulatory process and indicated that EPA "will no longer go behind closed doors and use consent decrees and settlement agreements to resolve lawsuits filed against the Agency." The issue of "sue and settle" and the ability of special interest groups to use deadline lawsuits to force EPA to issue regulations that advance their priorities on a specified timeframe has long been a concern of this Subcommittee.

As you noted in your statement about the new policy, "'sue and settle' cases establish Agency obligations without participation by states and/or the regulated community; foreclose meaningful public participation in rulemaking; effectively force the Agency to reach certain regulatory outcomes; and, cost the American taxpayer millions of dollars."

Has the Agency started implementing the changes?

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

# Deliberative Process / Ex. 5

There has been some pushback on your sue and settle proposal. How do you respond to the people, many of whom are former EPA attorneys, who say that the policy "discourages settlements when they would have been appropriate and increases agency costs?"

## Deliberative Process / Ex. 5

How do you differentiate between the negative aspects of sue and settle [lack of transparency etc...] and the positive? For example, regulated entities and EPA often reach agreement on a cleanup or enforcement issue, enter a settlement, and then file a lawsuit seeking court approval and enforcement of the settlement. Is your new "sue and settle" policy agency-wide? And is it a mandate to not use sue and settle in ways that shorten the administrative time it takes to get a cleanup or resolution of an enforcement action?

**Deliberative Process / Ex. 5**

10. OLEM/OGC (SWERLO and CCILO) How do you reconcile Executive Order 12580 when it gives the polluter who is also the person paying for the cleanup, the right to make all of the decisions with respect to the remedy with no oversight from EPA?

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

# Deliberative Process / Ex. 5

## Blackburn

2. OP/OGC (CCILO) In accordance with the President's Executive Order 13777, your Agency began a process of reviewing EPA regulations in need of reform because they eliminate or inhibit job creation, are outdated, ineffective, or unnecessary, impose costs that exceed benefits, or create legal inconsistencies.

- a. What is the status of this review?

**Deliberative Process / Ex. 5**

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**Deliberative Process / Ex. 5**

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## Burgess

1. REFERRED TO OECA In my State of Texas, we have become too familiar with the EPA making examples of a few people to scare everyone else into compliance. Could you explain why you are intentionally moving away from heavy handed regulatory treatment and moving more toward building partnerships with States and industry to improve the environment?

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**Deliberative Process / Ex. 5**

## Pallone

OP/OLEM/OGC (ECRCO/CRFLO/CCILO) Since the issuance of Executive Order 12898 in 1994, EPA has been required to incorporate the goal of environmental justice into its mission. As part of that executive order, and in keeping with Title VI of the

Civil Rights Act of 1964, EPA is required to ensure all of its activities that affect human health and the environment do not directly or indirectly discriminate on the basis of race, color, or national origin. **Deliberative Process / Ex. 5**

1. What are you doing to ensure that EPA's response and recovery efforts in Puerto Rico and the U.S. Virgin Islands comply with the Executive Order on environmental justice and the Civil Rights Act?

## Deliberative Process / Ex. 5

OP/OLEM/OGC **(ECRCO/CRFLO/CCILO)** Environmental justice is also a serious concern in the Agency's response to Hurricane Harvey because of disparities between communities affected by that storm. **Deliberative Process / Ex. 5**

1. What have you been doing to ensure that EPA's response and recovery efforts in Texas comply with the Executive Order on environmental justice and the Civil Rights Act?

## Deliberative Process / Ex. 5

2. What direction, if any, have you given to your Regional Administrators and other regional staff with regard to ensuring environmental justice in EPA's hurricane response? Please provide any memoranda or email correspondence you or your staff have sent to regional staff on the subject of environmental justice and hurricane response.

## Deliberative Process / Ex. 5

3. Who on your staff is tasked with coordinating response efforts across the regions to ensure equal treatment for the people of Puerto Rico and the U.S. Virgin Islands?

## Deliberative Process / Ex. 5

OP/ OGC **(ECRCO/CRFLO/CCILO)** Since assuming your position as Administrator, you have delayed or abandoned numerous rules and regulations that would have protected vulnerable communities. **Deliberative Process / Ex. 5**

6. Do you believe that your decision to abandon EPA's proposed ban of the dangerous pesticide chlorpyrifos complies with the Executive Order on environmental justice and the Civil Rights Act?

## Deliberative Process / Ex. 5

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OP/OGC (GLO and CCILO) Nearly thirty-five years ago, in his landmark “Fishbowl Memo,” Administrator Ruckelshaus announced that he would release his appointment calendar on a weekly basis, and he directed the Deputy Administrator and all Assistant Administrators, Associate Administrators, Regional Administrators, and Staff Office Directors to do the same. Administrator Ruckelshaus emphasized that “EPA will not accord privileged status to any special interest group” and that the public should be “fully aware of [top officials’] contacts with interested persons.” In the intervening decades, Administrators serving under both Democratic and Republican Administrations have upheld this practice. But your senior management team has yet to release its calendars, undermining agency transparency and raising questions about who may be accessing and influencing top EPA officials. EPA has recently provided the public with a “summary” of your calendar, and provided some heavily redacted records of your calendar through March 31. But the agency still has not released the actual records of your daily calendars since March, despite numerous FOIA requests for them.

Deliberative Process / Ex. 5

15. Will you commit to making your schedule public on a regular basis, so that Congress, the press, and ordinary Americans can see who you are meeting with? OP

**My calendar is publicly available at:** <https://www.epa.gov/senior-leaders-calendars/calendar-scott-pruitt-administrator>

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**Calendars for senior officials are publicly available.**

OEI/OGC (GLO and FEAT) We are also concerned about delays in EPA’s response to FOIA requests under your administration. EPA’s failure to meet the deadlines specified in the Freedom of Information Act results in legal violations, which then subject EPA to repeated lawsuits. [SEE COMMENTS IN ATTACHED DRAFT]

17. Given the legal expenses and waste of resources caused by EPA’s failure to comply with FOIA deadlines, do you agree that EPA should streamline the review process for release of documents to eliminate any unnecessary steps, such as multiple levels of document review?

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**The table below provides information on FOIA requests the Agency has received and closed in recent months:**

Month	Received	Closed *
January 2017	957	897
February 2017	897	818
March 2017	1180	1040
April 2017	1036	901
May 2017	1165	1007
June 2017	1101	936
July 2017	962	795
August 2017	988	795
September 2017	850	641
October 2017	1147	863
November 2017	923	699

\* The table shows how many FOIAs have been received each month, and how many of those FOIAs have been closed as of January 26, 2018.

23. Will you establish a policy of responding to new FOIA requests on an ongoing basis, rather than relegating them to the back of the line and without waiting to be sued on each request?

## Deliberative Process / Ex. 5

OGC/OEI (GLO) It has been reported that you and other political appointees have directed staff to avoid creating public records that could be subject to FOIA requests, such as directing staff to provide internal policy decisions orally instead of by electronic mail or directing staff not to take notes in meetings. [SEE COMMENTS IN ATTACHED DRAFT]

24. Do you agree that EPA is required to create and maintain records that document the formulation of the agency's decisions, and the people and matters dealt with by the agency, so that proper scrutiny by Congress and other agencies is possible?

## Deliberative Process / Ex. 5

25. Have you or other political employees provided any direction to staff that could discourage them from creating such records?

## Deliberative Process / Ex. 5

### Contract with Definers Public Affairs:

OPA/OGC (CRFLO) On the day you testified before Energy and Commerce, EPA entered into a no-bid contract with Definers Public Affairs to provide "news analysis and brief service focusing on EPA work and other topics of interest to EPA." The awarding of this contract without full and open competition to a company with no apparent experience in providing these services to a Federal agency is concerning, as are the political lobbying activities of the firm. Though Definers recently terminated the contract with EPA, we have outstanding questions regarding EPA's selection of Definers and whether the Contract was an appropriate use of taxpayer dollars.

### Deliberative Process / Ex. 5

26. What was your role in selecting Definers for this award? In addition to yourself, which EPA political appointees were involved in selecting Definers? Please provide all communications between yourself and all other EPA political appointees and any Definers representative between February 17, 2017 and December 7, 2017.

27. Were you or other EPA political appointees aware of the FOIA requests filed by Definers employees against individual agency employees before the contract was awarded? Were those FOIA requests considered in the identification of Definers as a potential candidate for the Contract, or a factor in ultimately awarding the Contract?

28. Was Definers, AmericaRising, or any of their agents involved in creating or funding the website [ConfirmPruitt.com](http://ConfirmPruitt.com)?

29. Were you, any of your agents, or any current EPA employees involved in generating or reviewing the content of the website [ConfirmPruitt.com](http://ConfirmPruitt.com), or providing or raising funds for the site? Did any representative of Definers, America Rising, or America Rising Squared generate or review content for the website?

30. What work did Definers perform for EPA pursuant to the contract? Please provide a list of all services performed by Definers for EPA during the duration of the contract, including the date, the service provided, time required, the itemized cost, and the name of the Definers employee who performed the work. What was the total amount of taxpayer funds EPA paid Definers during the duration of the contract? Please provide copies of all communications between EPA and any representative of Definers, America Rising, America Rising Squared, and the Need to Know Network during calendar year 2017.

31. On December 10, the New York Times published an article identifying an alarming decrease in enforcement actions brought by the EPA during your administration. EPA issued an unusual press release in response, which has since been removed from the agency website but continues to be cited by conservative media sources. What role did Definers play in

the agency's response to the December 10th article? Provide any correspondence between EPA and any representative of Definers, America Rising, America Rising Squared, and the Need to Know Network regarding the December 10th article.

32. What firewalls were in place in the contract with Definers Corp to ensure that Definers firewalled the media monitoring services provided under the Contract from its services that would violate the Publicity or Propaganda Prohibition and Anti-Lobbying provisions?

33. Please provide a copy of the contract between EPA and Definers Corp. including any statement of work.

#### Tonko

3. Advisors to the Administrator

OP/OGC (**Ethics**) On December 13, it was reported that Dr. Michael Dourson withdrew his name to serve as Assistant Administrator for the Office of Chemical Safety and Pollution Prevention.

a. In October, it was reported that Dr. Dourson was already working at the agency as an Adviser to the Administrator. Can you confirm whether Dr. Dourson has left the agency?

OGC/ETHICS:

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

b. If not, what are the roles and responsibilities of Dr. Dourson?

**Deliberative Process / Ex. 5**

c. What ethics or conflict of interest agreements apply or applied to Dr. Dourson in his role as Advisor to the Administrator? (**ETHICS**)

**Deliberative Process / Ex. 5**

d. You testified that the October 31 Science Advisory Board directive was driven by a concern that "a perception or an appearance of a lack of independence in advising the Agency." Did any EPA leadership have a conversation or express concerns about the perception of conflict of interest from Dr. Nancy Beck's involvement in revising the TSCA framework rules after leaving a position with the American Chemistry Council?

**Deliberative Process / Ex. 5**

6. OIG

OGC (**GLO or CRFLO**) The Office of Inspector General (OIG) Semiannual Report: April 1, 2017 - September 30, 2017 raised a number of issues about interference with the OIG's independence. From that report:

"A second budget impediment occurred when the OIG submitted an FY 2019 request for \$62 million to the agency for inclusion in the President's budget. Without seeking input from the OIG, the agency provided us with a request of \$42 million. The agency informed the OIG that the Office of Management and Budget mandated budget requests Semiannual Report to Congress April 1, 2017—September 30, 2017 13 could not be more than a certain percentage above the President's FY 2018 budget. The EPA also informed the OIG that the \$42 million request would not change. The OIG submitted a memorandum to the Office of Management and Budget stating the OIG's original budget request, and explaining that the EPA's submitted budget did not reflect the OIG's desired funding levels and would have significant negative impacts on OIG operations."

a. Do you believe a fully funded, independent Inspector General is necessary for EPA to run as an efficient and accountable agency?

**Deliberative Process / Ex. 5**



# Deliberative Process / Ex. 5

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**RICHARD L. ALBORES**

Associate Deputy General Counsel \* Office of General Counsel \* U.S. EPA \* 1200 Pennsylvania Avenue, NW \* MC2310A \*  
Washington, DC 20460 \* email: [albores.richard@epa.gov](mailto:albores.richard@epa.gov) \* phone: 202.564.7102 \* mobile: Personal Phone / Ex. 6

**To:** Albores, Richard[Albores.Richard@epa.gov]; Moody, Christina[Moody.Christina@epa.gov]; Gomez, Laura[Gomez.Laura@epa.gov]  
**Cc:** OGC HQ ADDs[OGC\_HQ\_ADDs@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; OGC Immediate Office MGMT[OGC\_Immediate\_Office\_MGMT@epa.gov]; Lewis, Jen[Lewis.Jen@epa.gov]; Michaud, John[Michaud.John@epa.gov]; Packard, Elise[Packard.Elise@epa.gov]; Redden, Kenneth[Redden.Kenneth@epa.gov]  
**From:** Levine, Carolyn  
**Sent:** Fri 1/26/2018 9:43:48 PM  
**Subject:** RE: CONSOLIDATED RESPONSES re: 12.7.17 Environment Subcmte Hearing - DUE TODAY COB (4PM)

# Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Please let me know any questions. -Carolyn

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Response:

Deliberative Process / Ex. 5

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-----  
Carolyn Levine  
Office of Congressional and  
Intergovernmental Relations  
U.S. EPA  
(202) 564-1859  
levine.carolyn@epa.gov

**From:** Albores, Richard  
**Sent:** Friday, January 26, 2018 4:13 PM  
**To:** Moody, Christina <Moody.Christina@epa.gov>; Gomez, Laura <Gomez.Laura@epa.gov>  
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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

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**Deliberative Process / Ex. 5**

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27. Were you or other EPA political appointees aware of the FOIA requests filed by Definers employees against individual agency employees before the contract was awarded? Were those FOIA requests considered in the identification of Definers as a potential candidate for the Contract, or a factor in ultimately awarding the Contract?

28. Was Definers, AmericaRising, or any of their agents involved in creating or funding the website [ConfirmPruitt.com](http://ConfirmPruitt.com)?

29. Were you, any of your agents, or any current EPA employees involved in generating or reviewing the content of the website [ConfirmPruitt.com](http://ConfirmPruitt.com), or providing or raising funds for the site? Did any representative of Definers, America Rising, or America Rising Squared generate or review content for the website?

30. What work did Definers perform for EPA pursuant to the contract? Please provide a list of all services performed by Definers for EPA during the duration of the contract, including the date, the service provided, time required, the itemized cost, and the name of the Definers employee who performed the work. What was the total amount of taxpayer funds EPA paid Definers during the duration of the contract? Please provide copies of all communications between EPA and any representative of Definers, America Rising, America Rising Squared, and the Need to Know Network during calendar year 2017.

31. On December 10, the New York Times published an article identifying an alarming decrease in enforcement actions brought by the EPA during your administration. EPA issued an unusual press release in response, which has since been removed from the agency website but continues to be cited by conservative media sources. What role did Definers play in the agency's response to the December 10th article? Provide any correspondence between EPA and any representative of Definers, America Rising, America Rising Squared, and the Need to Know Network regarding the December 10th article.

32. What firewalls were in place in the contract with Definers Corp to ensure that Definers firewalled the media monitoring services provided under the Contract from its services that would violate the Publicity or Propaganda Prohibition and Anti-Lobbying provisions?

33. Please provide a copy of the contract between EPA and Definers Corp. including any statement of work.

### Tonko

3. Advisors to the Administrator

OP/OGC (Ethics) On December 13, it was reported that Dr. Michael Dourson withdrew his name to serve as Assistant Administrator for the Office of Chemical Safety and Pollution Prevention.

a. In October, it was reported that Dr. Dourson was already working at the agency as an Adviser to the Administrator. Can you confirm whether Dr. Dourson has left the agency?

OGC/ETHICS:

### Deliberative Process / Ex. 5

### Deliberative Process / Ex. 5

b. If not, what are the roles and responsibilities of Dr. Dourson?



# Deliberative Process / Ex. 5

- c. What ethics or conflict of interest agreements apply or applied to Dr. Dourson in his role as Advisor to the Administrator? (ETHICS)

# Deliberative Process / Ex. 5

- d. You testified that the October 31 Science Advisory Board directive was driven by a concern that “a perception or an appearance of a lack of independence in advising the Agency.” Did any EPA leadership have a conversation or express concerns about the perception of conflict of interest from Dr. Nancy Beck’s involvement in revising the TSCA framework rules after leaving a position with the American Chemistry Council?

# Deliberative Process / Ex. 5

6. OIG

OGC (GLO or CRFLO) The Office of Inspector General (OIG) Semiannual Report: April 1, 2017 - September 30, 2017 raised a number of issues about interference with the OIG’s independence. From that report:

“A second budget impediment occurred when the OIG submitted an FY 2019 request for \$62 million to the agency for inclusion in the President’s budget. Without seeking input from the OIG, the agency provided us with a request of \$42 million. The agency informed the OIG that the Office of Management and Budget mandated budget requests Semiannual Report to Congress April 1, 2017—September 30, 2017 13 could not be more than a certain percentage above the President’s FY 2018 budget. The EPA also informed the OIG that the \$42 million request would not change. The OIG submitted a memorandum to the Office of Management and Budget stating the OIG’s original budget request, and explaining that the EPA’s submitted budget did not reflect the OIG’s desired funding levels and would have significant negative impacts on OIG operations.”

- a. Do you believe a fully funded, independent Inspector General is necessary for EPA to run as an efficient and accountable agency?

# Deliberative Process / Ex. 5

R

~~~~~  
RICHARD L. ALBORES

Associate Deputy General Counsel \* Office of General Counsel \* U.S. EPA \* 1200 Pennsylvania Avenue, NW \* MC2310A \* Washington, DC 20460 \* email: [albores.richard@epa.gov](mailto:albores.richard@epa.gov) \* phone: 202.564.7102 \* mobile: Personal Phone / Ex. 6

**To:** Grantham, Nancy[Grantham.Nancy@epa.gov]  
**Cc:** Knapp, Kristien[Knapp.Kristien@epa.gov]  
**From:** Aarons, Kyle  
**Sent:** Mon 1/29/2018 7:58:29 PM  
**Subject:** RE: Definers contract documents for CBI review

Hi Nancy - **Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5** We'll try to catch up with you tomorrow afternoon if we have timing instructions. Thanks

Kyle Aarons  
Congressional Affairs  
U.S. Environmental Protection Agency  
202-564-7351

-----Original Message-----

From: Grantham, Nancy  
Sent: Monday, January 29, 2018 12:10 PM  
To: Aarons, Kyle <Aarons.Kyle@epa.gov>  
Cc: Knapp, Kristien <Knapp.Kristien@epa.gov>  
Subject: RE: Definers contract documents for CBI review

Just pinged them

Nancy Grantham  
Office of Public Affairs  
US Environmental Protection Agency  
202-564-6879 (desk)

**Personal Phone / Ex. 6** (mobile)

-----Original Message-----

From: Aarons, Kyle  
Sent: Monday, January 29, 2018 8:19 AM  
To: Grantham, Nancy <Grantham.Nancy@epa.gov>  
Cc: Knapp, Kristien <Knapp.Kristien@epa.gov>  
Subject: RE: Definers contract documents for CBI review

Hi Nancy - Have you heard anything from Definers on this? We would like

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

Thanks,  
Kyle

Kyle Aarons  
Congressional Affairs  
U.S. Environmental Protection Agency  
202-564-7351

-----Original Message-----

From: Grantham, Nancy  
Sent: Wednesday, January 24, 2018 4:20 PM  
To: Aarons, Kyle <Aarons.Kyle@epa.gov>  
Cc: Knapp, Kristien <Knapp.Kristien@epa.gov>  
Subject: Re: Definers contract documents for CBI review

Yes - will do

Sent from my iPhone

> On Jan 24, 2018, at 4:18 PM, Aarons, Kyle <Aarons.Kyle@epa.gov> wrote:

>

> Hi Nancy – As part of our response to congress about the Definers contract, we are planning to send a set of documents from OAM relating to the contract. The set may contain Confidential Business Information (CBI) that Definers would not want to release (most notably, cost breakdowns). We have proposed redactions in the attached set – Would it be possible for you to get this to Definers to ask if they are claiming anything else as CBI?

>

> We are aiming to release these on Monday.

>

> Thanks,

> Kyle

>

> Kyle Aarons

> Congressional Affairs

> U.S. Environmental Protection Agency

> 202-564-7351

>

> <Definers contract documents with proposed redactions for CBI review.pdf>

**To:** Grantham, Nancy[Grantham.Nancy@epa.gov]; Greg D'Andrea[Greg.DAndrea@cision.com]  
**From:** Ben Fritz  
**Sent:** Fri 12/29/2017 5:31:55 PM  
**Subject:** Re: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Hi Nancy,  
Short answer is that Bulletin is not on the GSA schedule. Unfortunately the GSA is not a good match for a custom-built service like ours for several reasons. I'm traveling currently, but can provide more color next week if helpful.  
Best,  
Ben

---

**From:** Grantham, Nancy <Grantham.Nancy@epa.gov>  
**Sent:** Friday, December 29, 2017 12:16:44 PM  
**To:** Greg D'Andrea  
**Cc:** Ben Fritz  
**Subject:** RE: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Thanks for the call – will send some info shortly.  
  
Also, is Bulletin Intelligence on the GSA schedule? Thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**  

Personal Phone / Ex. 6 (mobile)

---

**From:** Greg D'Andrea [mailto:Greg.DAndrea@cision.com]  
**Sent:** Friday, December 29, 2017 10:33 AM  
**To:** Grantham, Nancy <Grantham.Nancy@epa.gov>  
**Cc:** Ben Fritz <bfritz@bulletinintelligence.com>  
**Subject:** Re: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Hi Nancy - Let me know if you can still join now. Ben and I are on the line. Dial in below...

Nonresponsive Conference Code / Ex. 6

Greg D'Andrea  
Account Director  
p 203.506.7178  
[greg.dandrea@cision.com](mailto:greg.dandrea@cision.com)



---

**From:** Grantham, Nancy <Grantham.Nancy@epa.gov>  
**Sent:** Thursday, December 28, 2017 5:50:25 PM  
**To:** Greg D'Andrea  
**Subject:** RE: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Thanks

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**

Personal Phone / Ex. 6

---

**From:** Greg D'Andrea [<mailto:Greg.DAndrea@cision.com>]

**Sent:** Thursday, December 28, 2017 5:46 PM

**To:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>

**Subject:** Re: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Great - I've just sent the invite. Call-in details are in the location field.

Talk tomorrow!

Greg D'Andrea  
Account Director  
p 203.506.7178  
[greg.dandrea@cision.com](mailto:greg.dandrea@cision.com)

**CISION**

---

**From:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>

**Sent:** Thursday, December 28, 2017 5:21:18 PM

**To:** Greg D'Andrea

**Subject:** RE: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

I could do 10:30 – can you send a scheduler with a number to call? thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**

Personal Phone / Ex. 6 **(mobile)**

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**Subject:** Re: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Hi Nancy - are you available earlier tomorrow - say 9:30, 10 or 10:30?

Greg D'Andrea  
Account Director  
p 203.506.7178  
[greg.dandrea@cision.com](mailto:greg.dandrea@cision.com)

**CISION**

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**From:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>

**Sent:** Thursday, December 28, 2017 1:46:37 PM

**To:** Greg D'Andrea

**Subject:** RE: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Would 1 or 2 work for you? thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**

Personal Phone / Ex. 6 (mobile)

---

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**Sent:** Thursday, December 28, 2017 1:44 PM  
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**Subject:** Re: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Sure what time?

Greg D'Andrea  
Account Director  
p 203.506.7178  
[greg.dandrea@cision.com](mailto:greg.dandrea@cision.com)

**CISION**

---

**From:** Grantham, Nancy <Grantham.Nancy@epa.gov>  
**Sent:** Thursday, December 28, 2017 1:41:21 PM  
**To:** Greg D'Andrea  
**Subject:** RE: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Would tomorrow work? Thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**

Personal Phone / Ex. 6 (mobile)

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**From:** Greg D'Andrea [mailto:Greg.DAndrea@cision.com]  
**Sent:** Thursday, December 28, 2017 1:38 PM  
**To:** Grantham, Nancy <Grantham.Nancy@epa.gov>  
**Subject:** Re: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Hi Nancy - just looking to see if you still want to connect this week or if we should wait till next week.

Let me know and Happy New Year!  
-Greg

Greg D'Andrea  
Account Director  
p 203.506.7178  
[greg.dandrea@cision.com](mailto:greg.dandrea@cision.com)

**CISION**

---

**From:** Greg D'Andrea  
**Sent:** Wednesday, December 27, 2017 3:04:50 PM  
**To:** Grantham, Nancy  
**Subject:** Re: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Sure thing Nancy. When do you have time to discuss this week? I'm in both tomorrow and Friday.

Greg D'Andrea  
Account Director  
p 203.506.7178

**From:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>  
**Sent:** Tuesday, December 26, 2017 4:22:30 PM  
**To:** Greg D'Andrea  
**Subject:** FW: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Let's discuss when we connect later this week.

Thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**  
**Personal Phone / Ex. 6 (mobile)**

---

**From:** Grantham, Nancy  
**Sent:** Tuesday, December 26, 2017 11:34 AM  
**To:** Wooden-Aguilar, Helena <[Wooden-Aguilar.Helena@epa.gov](mailto:Wooden-Aguilar.Helena@epa.gov)>  
**Subject:** FW: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

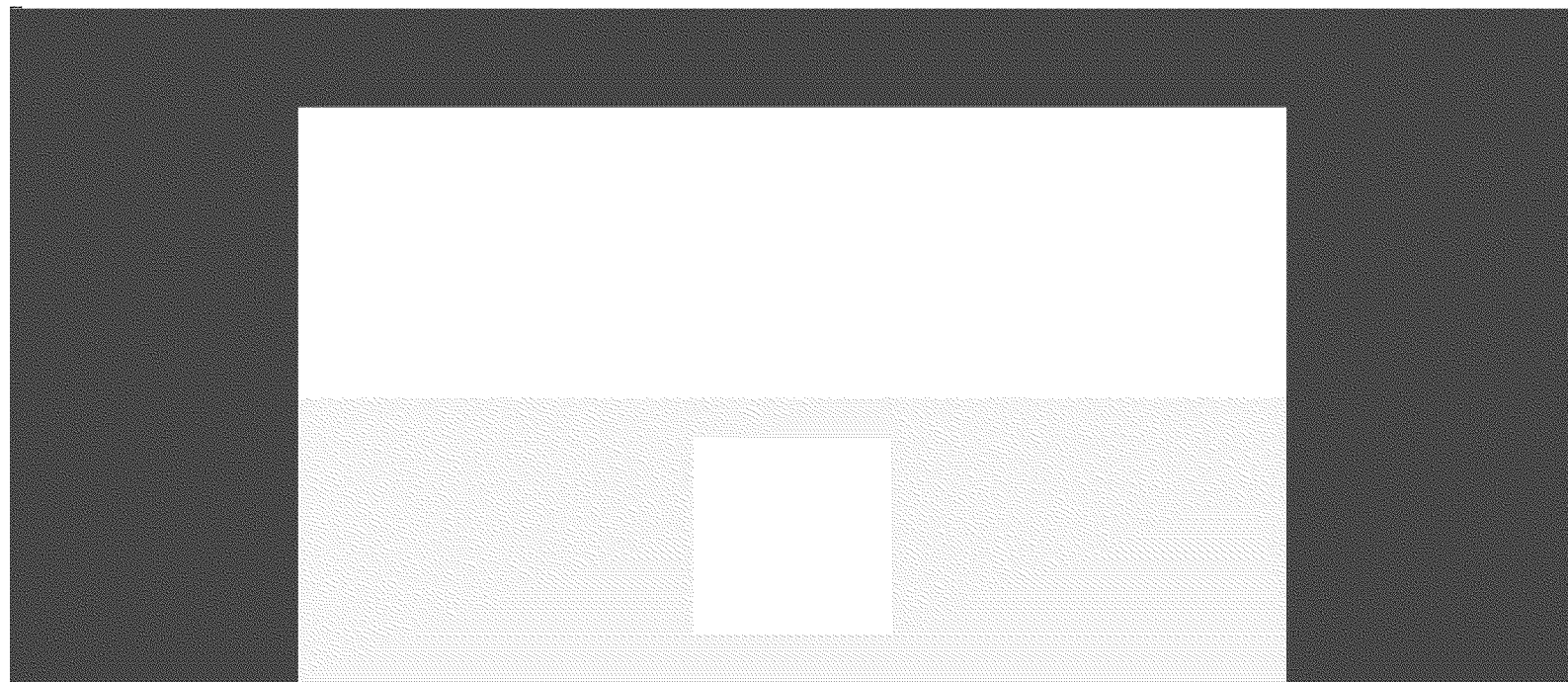
This is good news as they include real time monitoring which was a feature of definers.

Thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**  
**Personal Phone / Ex. 6 (mobile)**

---

**From:** Kevin Akeroyd [<mailto:executivecommunications@cision.com>]  
**Sent:** Tuesday, December 26, 2017 11:30 AM  
**To:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>  
**Subject:** Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities



# Cision® Acquires PRIME Research

Hello Nancy,

I am excited to announce that Cision® has signed a definitive agreement to acquire PRIME Research, a global leader in media measurement services – enhancing Cision's role as a leader of software and services for communications professionals. This acquisition furthers Cision's goal of becoming the one-stop provider for brands who want to identify their ideal influencers, craft engaging campaigns, and attribute meaningful value to those campaigns. It also bolsters the business value of the Cision Communications Cloud®, our all-in-one platform for communicators.

Combining the expertise of the two companies will improve our ability to help communicators transform their overall media mix to deliver greater value and, of increasing importance, better measure the ROI of their earned media efforts. Some of the largest brands in the world rely on both Cision and PRIME to deliver on that measurement challenge.

PRIME is a global company with offices in Europe, North American and Asia-Pacific. They have over 500 clients and service some of the world's most prestigious brands such as MasterCard, Jaguar and Honda. They bring to Cision additional capabilities with respect to real-time monitoring and analysis across digital, print, TV, and online news. It also includes a wide range of social media outlets, including Twitter, Facebook, Google+, YouTube, blogs, forums, WeChat and Weibo. PRIME provides clients with a highly customizable dashboard for their news and media monitoring 24 hours a day. In addition to its global reach, PRIME has deep industry expertise across many different verticals including, automotive, retail and technology. The IP and know-how developed through gaining expertise within these verticals will be made available to all Cision customers.



Today's announcement comes on the heels of Cision's acquisition of CEDROM-SNi Inc., a firm specializing in digital media monitoring solutions. Stay tuned for future announcements that will further detail the many ways these acquisitions will benefit you as we integrate additional capabilities into the Cision Communications Cloud platform.

To learn more about the acquisition or Cision Communications Cloud, please contact us at [executivecommunications@cision.com](mailto:executivecommunications@cision.com) or visit [cision.com](http://cision.com).

**Best,**  
**Kevin Akeroyd**  
**CEO, Cision**

**Cision® Acquires PRIME Research**

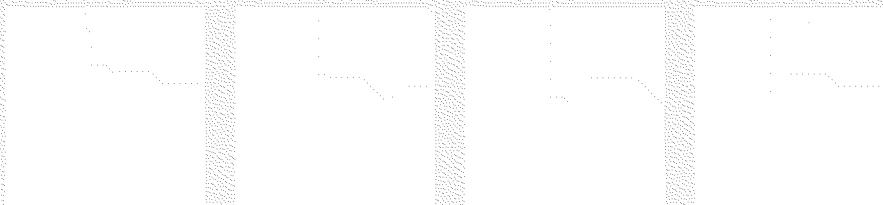
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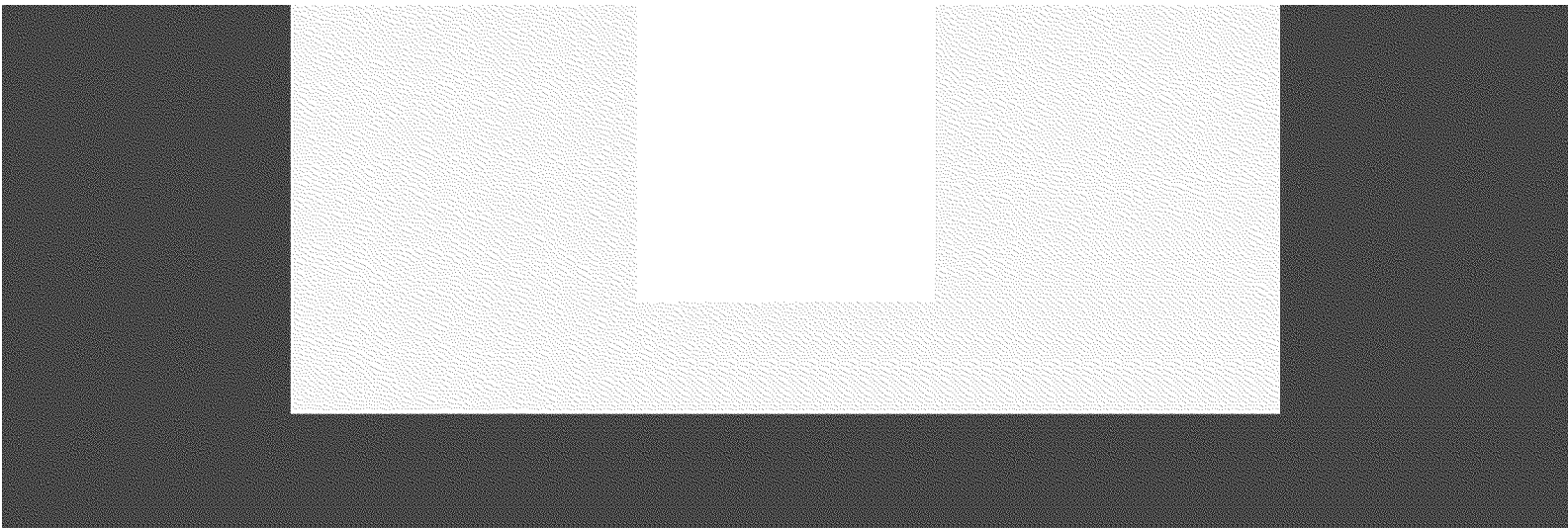
130 E Randolph St. 7th Floor Chicago, IL 60601, USA

[www.cision.com](http://www.cision.com)

This email was sent to [grantham.nancy@epa.gov](mailto:grantham.nancy@epa.gov) by Cision US.

If you no longer wish to receive these emails you may [unsubscribe](#) at any time.





**To:** Grantham, Nancy[Grantham.Nancy@epa.gov]  
**From:** Greg D'Andrea  
**Sent:** Thur 12/28/2017 10:46:15 PM  
**Subject:** Re: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Great - I've just sent the invite. Call-in details are in the location field.

Talk tomorrow!

Greg D'Andrea  
Account Director  
p 203.506.7178  
[greg.dandrea@cision.com](mailto:greg.dandrea@cision.com)



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**US Environmental Protection Agency**  
**202-564-6879 (desk)**  

**Personal Phone / Ex. 6**

**(mobile)**

---

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p 203.506.7178  
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**US Environmental Protection Agency**

**202-564-6879 (desk)**

**Personal Phone / Ex. 6 (mobile)**

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**From:** Greg D'Andrea [<mailto:Greg.DAndrea@cision.com>]

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**To:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>

**Subject:** Re: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

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**CISION**

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CISION

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**Subject:** FW: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

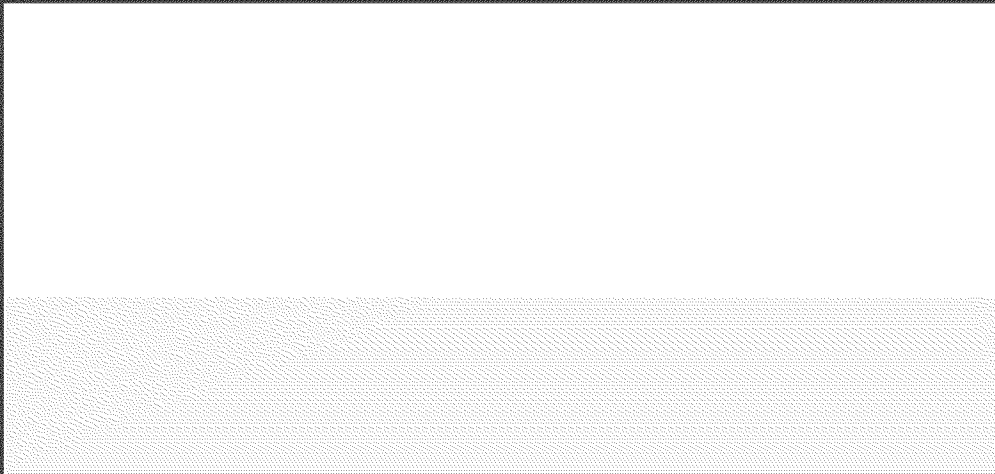
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**Subject:** Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities







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Combining the expertise of the two companies will improve our ability to help communicators transform their overall media mix to deliver greater value and, of increasing importance, better measure the ROI of their earned media efforts. Some of the largest brands in the world rely on both Cision and PRIME to deliver on that measurement challenge.

PRIME is a global company with offices in Europe, North American and Asia-Pacific. They have over 500 clients and service some of the world's most prestigious brands such as MasterCard, Jaguar and Honda. They bring to Cision additional capabilities with respect to real-time monitoring and analysis across digital, print, TV, and online news. It also includes a wide range of social media outlets, including Twitter, Facebook, Google+, YouTube, blogs, forums, WeChat and Weibo. PRIME provides clients with a highly customizable dashboard for their news and media monitoring 24 hours a day. In addition to its global reach, PRIME has deep industry

expertise across many different verticals including, automotive, retail and technology. The IP and know-how developed through gaining expertise within these verticals will be made available to all Cision customers.

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To learn more about the acquisition or Cision Communications Cloud, please contact us at [executivecommunications@cision.com](mailto:executivecommunications@cision.com) or visit [cision.com](http://cision.com).

**Best,**  
**Kevin Akeroyd**  
**CEO, Cision**

**Cision® Acquires PRIME Research**

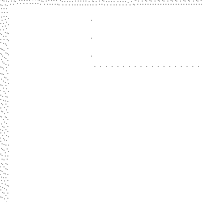
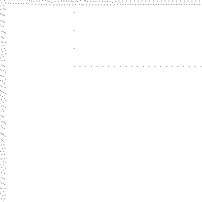
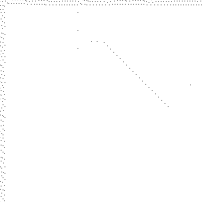
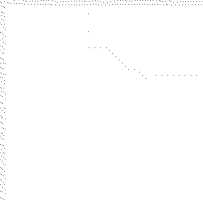
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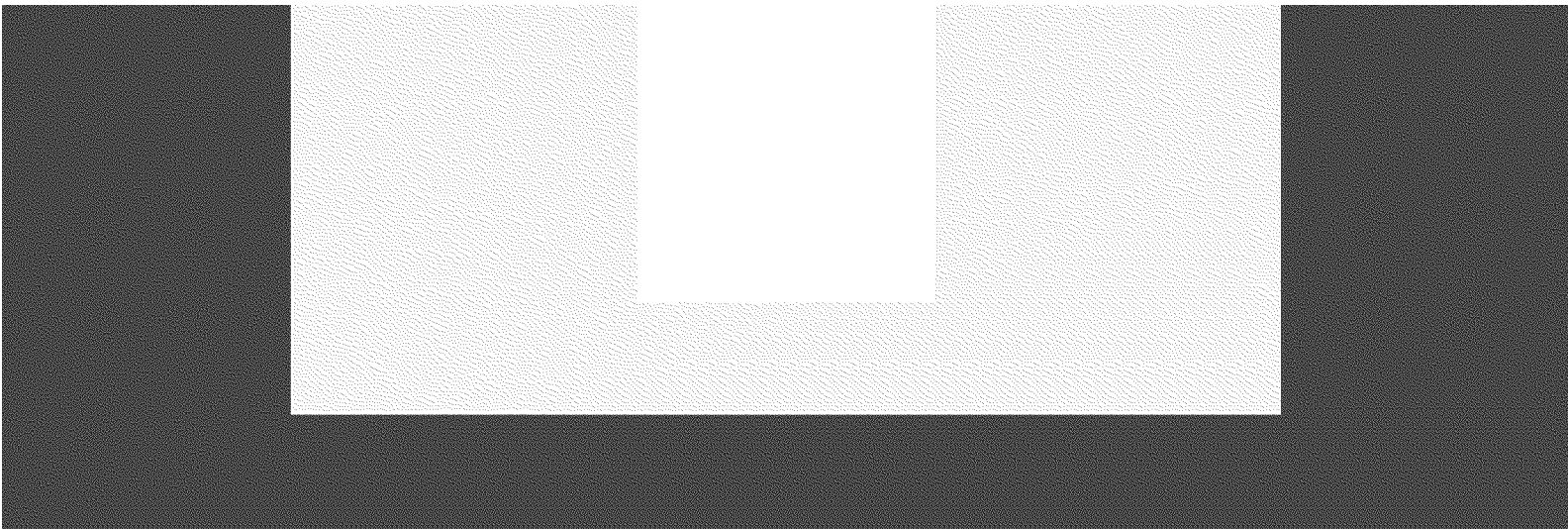
130 E Randolph St. 7th Floor Chicago, IL 60601, USA

[www.cision.com](http://www.cision.com)

This email was sent to [grantham.nancy@epa.gov](mailto:grantham.nancy@epa.gov) by Cision US.

If you no longer wish to receive these emails you may [unsubscribe](#) at any time.







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**From:** Greg D'Andrea  
**Sent:** Thur 12/28/2017 10:17:41 PM  
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Greg D'Andrea  
Account Director  
p 203.506.7178  
greg.dandrea@cision.com



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**From:** Grantham, Nancy <Grantham.Nancy@epa.gov>  
**Sent:** Thursday, December 28, 2017 1:46:37 PM  
**To:** Greg D'Andrea  
**Subject:** RE: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Would 1 or 2 work for you? thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**  

Personal Phone / Ex. 6 (mobile)

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**From:** Greg D'Andrea [mailto:Greg.DAndrea@cision.com]  
**Sent:** Thursday, December 28, 2017 1:44 PM  
**To:** Grantham, Nancy <Grantham.Nancy@epa.gov>  
**Subject:** Re: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Sure what time?

Greg D'Andrea  
Account Director  
p 203.506.7178  
[greg.dandrea@cision.com](mailto:greg.dandrea@cision.com)



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**From:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>  
**Sent:** Thursday, December 28, 2017 1:41:21 PM  
**To:** Greg D'Andrea  
**Subject:** RE: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Would tomorrow work? Thanks ng

**Nancy Grantham**  
**Office of Public Affairs**  
**US Environmental Protection Agency**  
**202-564-6879 (desk)**  

Personal Phone / Ex. 6 (mobile)

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**From:** Greg D'Andrea [<mailto:Greg.DAndrea@cision.com>]

**Sent:** Thursday, December 28, 2017 1:38 PM

**To:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>

**Subject:** Re: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Hi Nancy - just looking to see if you still want to connect this week or if we should wait till next week.

Let me know and Happy New Year!

-Greg

Greg D'Andrea

Account Director

p 203.506.7178

[greg.dandrea@cision.com](mailto:greg.dandrea@cision.com)

**CISION**

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**From:** Greg D'Andrea

**Sent:** Wednesday, December 27, 2017 3:04:50 PM

**To:** Grantham, Nancy

**Subject:** Re: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Sure thing Nancy. When do you have time to discuss this week? I'm in both tomorrow and Friday.

Greg D'Andrea

Account Director

p 203.506.7178

[greg.dandrea@cision.com](mailto:greg.dandrea@cision.com)

CISION

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**From:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>

**Sent:** Tuesday, December 26, 2017 4:22:30 PM

**To:** Greg D'Andrea

**Subject:** FW: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

Let's discuss when we connect later this week.

Thanks ng

**Nancy Grantham**

**Office of Public Affairs**

**US Environmental Protection Agency**

**202-564-6879 (desk)**

**Personal Phone / Ex. 6 (mobile)**

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**From:** Grantham, Nancy

**Sent:** Tuesday, December 26, 2017 11:34 AM

**To:** Wooden-Aguilar, Helena <[Wooden-Aguilar.Helena@epa.gov](mailto:Wooden-Aguilar.Helena@epa.gov)>

**Subject:** FW: Cision® acquires PRIME Research, enhancing Cision Communications Cloud® capabilities

This is good news as they include real time monitoring which was a feature of definers.

Thanks ng

**Nancy Grantham**